

WASHINGTON COUNTY, UTAH, PUBLIC LANDS
MANAGEMENT IMPLEMENTATION ACT

SEPTEMBER 14, 2017.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 2423]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2423) to implement certain measures relating to management of Washington County, Utah, required by Public Law 111-11, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 2423 is to implement certain measures relating to management of Washington County, Utah, required by Public Law 111-11.

BACKGROUND AND NEED FOR LEGISLATION

The Omnibus Public Land Management Act of 2009 (OPLMA, Public Law 111-11) included several provisions that affected public land management in Washington County, Utah. Title 1, Subtitle O, of the Act designated 16 new wilderness areas; released several Wilderness Study Areas; created the 44,725-acre Red Cliffs National Conservation Area (NCA) and the 68,083-acre Beaver Dam Wash NCA; designated 165.5 miles of new Wild and Scenic Rivers; authorized the Secretary of the Interior to sell lands previously identified for disposal within the County; authorized the Secretary

of the Interior to make cooperative grants with other governmental agencies to conserve sensitive plant and animal species; conveyed certain land for public purposes and land within the Dixie National Forest; and transferred land into trust for the Shivwits Band of Paiute Indians. In addition, OPLMA directed the Bureau of Land Management (BLM) to develop a Washington County Comprehensive Travel and Transportation and Management Plan that identified “1 or more alternatives for a northern transportation route in the County.” These provisions reflected extensive negotiations and compromises between a variety of stakeholders within Washington County to balance conservation with the needs of the growing City of St. George.

To implement these provision, BLM began working on Resource Management Plans (RMPs) for the Beaver Dam Wash and Red Cliffs NCAs and began amending the St. George Field Office RMP. On December 21, 2016, BLM finalized the Records of Decision for the approved management plans.¹ The final RMPs incorporated components of the four alternatives considered during the planning process, but primarily resembled Alternative B, BLM’s Preferred Alternative that “emphasized resource protection while allowing land uses that were consistent with NCA purposes, current laws, Federal regulations, and agency policies.”² Despite repeated requests from the County and City, the final RMPs did not include a northern transportation route or any utility corridors.

The City of St. George’s rapidly growing population is straining current infrastructure and forcing local officials to develop new transportation alternatives. According to data from the U.S. Census Bureau, St. George ranks sixth nationwide in fastest growing metro areas.³ The Utah Governor’s office expects Washington County’s population to grow from 147,800 in 2013 to 334,800 by 2040.⁴ For over two decades, the County worked on developing a transportation corridor north of St. George to ease cross-town traffic congestion in anticipation of this rapid projected population growth. City planners estimate this route, which will connect the Washington Parkway to the Snow Canyon Parkway, will carry more than 46,000 vehicles per day by 2040 and reduce congestion on St. George Boulevard by 19,000 vehicles per day.⁵ Without the development of this route, the current infrastructure in St. George will fail to sustain the population’s transportation needs within the next two decades.

During the draft RMP phase, the U.S. Fish and Wildlife Service (FWS) opposed the County’s proposed northern transportation route based on purported impacts to desert tortoises in the area.⁶ However, County officials believe BLM and FWS did not ade-

¹ 81 FR 93707.

² 81 FR 60731.

³ David DeMille, “St. George among fastest-growing in U.S.,” USA Today, 03/23/17, <https://www.usatoday.com/story/news/2017/03/23/population-estimates-st-george-among-fastest-growing-us/99531406/>.

⁴ Dixie Metropolitan Planning Organization, “2015–2040 Regional Transportation Plan”, 06/17/15, <https://dixiempo.files.wordpress.com/2016/03/full-document-final.pdf>.

⁵ Julie Applegate, “Planners: Congestion inevitable, but northern corridor would help”, St. George News, 04/26/17, <https://www.stgeorgeutah.com/news/archive/2017/04/26/jla-congestion-inevitable-but-northern-corridor-would-help/#.WRt10PnytGo>.

⁶ U.S. Fish and Wildlife Service comments on Bureau of Land Management Resource Management Plans for the Red Cliffs and Beaver Dam Wash National Conservation Areas and Proposed Amendments to the St. George Field Office Resource Management Plan. November 16, 2015. Page B–15.

quately consider studies pointing to a minimal impact on desert tortoise habitat due to the road.⁷ In 2012, a study entitled “Washington Parkway Study: Integration of East-West Transportation Needs with Conservation Objectives for Desert Tortoise in Washington County, Utah” evaluated the effects of the transportation route outlined in OPLMA on desert tortoise habitat in Washington County. The study suggested several options to reduce the direct effects on desert tortoise habitat, including fencing, wildlife crossings, or pipe culverts or bridges to allow desert tortoise passage under the road. The study found that incorporating conservation-focused engineering techniques could “reduce habitat fragmentation and habitat loss, minimize direct mortality, and control unlawful recreational access” for the desert tortoise.⁸ Furthermore, the study found that the construction may even provide a net benefit to desert tortoise conservation due to the closing of other roads and limiting unauthorized access to ecologically sensitive areas.⁹

In addition to the northern transportation route, the County also needs utility corridors to support the growing population in St. George. The County’s Habitat Conservation Plan (HCP) outlined the utility management plan that would contain corridors to manage existing utility infrastructure and create new electric power lines, water wells and water lines.¹⁰ Despite being authorized in the HCP and language in OPLMA protecting the utilities, BLM did not include the utility corridors when finalizing its RMPs. Without the corridors to create new infrastructure for utilities, St. George will struggle to sustainably grow its economy and population.

When negotiating the relevant provisions of OPLMA, the County pushed for the inclusion of a northern transportation route and utility corridors in exchange for the new conservation areas. It agreed to the provisions with the assurance that BLM would authorize the route. The language in OPLMA regarding the development of the northern transportation route specifically requires the BLM to consult “appropriate Federal agencies, State, tribal, and local governmental entities (including the County and St. George City, Utah).”¹¹ However, in a field hearing in St. George in January 2016, Mayor Jon Pike stated that BLM “excluded [the City] (along with all other municipalities in the county) from participating in the formulation of alternatives in the RMPs.”¹² After the field hearing, BLM continued to refuse to amend the draft RMPs to include the northern transportation route or utility corridor, despite multiple requests from locally-elected officials in St. George and Washington County.

⁷Washington County comments on the Bureau of Land Management Resource Management Plans for the Red Cliffs and Beaver Dam Wash National Conservation Areas and Proposed Amendments to the St. George Field Office Resource Management Plan and Draft Environmental Impact Statement. November 16, 2015. Addendum 1. Pages 6–7.

⁸Jacobs and Logan Simpson Design Inc., “Washington Parkway Study”, September 2012, https://dixieimp.files.wordpress.com/2012/12/nwp_final_report.pdf.

⁹Ibid.

¹⁰Testimony of Commissioner Alan Gardner, Subcommittee on Federal Lands Oversight Field Hearing on “Ensuring Local Input, Legal Consistency and Multi-Use Resource Management in St. George BLM Planning”, http://naturalresources.house.gov/uploadedfiles/testimony_gardner.pdf.

¹¹Public Law 111–11.

¹²Testimony of Mayor Jon Pike, Subcommittee on Federal Lands Oversight Field Hearing on “Ensuring Local Input, Legal Consistency and Multi-Use Resource Management in St. George BLM Planning”, http://naturalresources.house.gov/uploadedfiles/testimony_pike.pdf.

H.R. 2423 directs the Secretary of the Interior to implement the provisions of OPLMA related to the northern transportation route and utility corridors that BLM excluded from its RMPs. The language simply directs the Department of the Interior to issue any necessary rights-of-way for the northern transportation route and authorize the development of utilities in accordance with the Washington County HCP. This language reflects the compromises the County negotiated in good faith with BLM eight years ago, before the passage of OPLMA, and will allow the City of St. George to sustainably grow while minimizing impacts to desert tortoise habitat.

COMMITTEE ACTION

H.R. 2423 was introduced on May 16, 2017, by Congressman Chris Stewart (R-UT). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Federal Lands. On May 23, 2017, the Subcommittee held a hearing on the bill. On July 25, 2017, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. No amendments were offered, and the bill was ordered favorably reported to the House of Representatives by a roll call vote of 19 ayes to 15 nays on July 26, 2017, as follows:

Committee on Natural Resources
U.S. House of Representatives
115th Congress

Date: 07-26-17

Recorded Vote #: 6

Meeting on / Amendment on: FC Mark Up on 21 bills: **On Favorably Reporting H.R. 2423** (Rep. Chris Stewart),
"Washington County, Utah, Public Lands Management Implementation Act"

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman	X			Mr. Cook, CA	X		
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mr. Soto, FL</i>		X	
Mr. Young, AK, Chairman Emeritus				Mr. Westerman, AR	X		
<i>Mrs. Napolitano, CA</i>				<i>Mr. McEachin, VA</i>		X	
Mr. Gohmert, TX, Vice Chairman				Mr. Graves, LA	X		
<i>Ms. Bordallo, Guam</i>				<i>Mr. Brown, MD</i>		X	
Mr. Lamborn, CO	X			Mr. Hice, GA	X		
<i>Mr. Costa, CA</i>		X		<i>Mr. Clay, MO</i>		X	
Mr. Wittman, VA	X			Mrs. Radewagen, AS	X		
<i>Mr. Sablan, CNMI</i>		X		<i>Mr. Gomez, CA</i>		X	
Mr. McClintock, CA	X			Mr. LaHood, IL	X		
<i>Ms. Tsongas, MA</i>		X		Mr. Webster, FL	X		
Mr. Pearce, NM	X			Mr. Bergman, MI	X		
<i>Mr. Huffman, CA</i>		X		Ms. Cheney, WY	X		
Mr. Thompson, PA				Mr. Johnson, LA			
<i>Mr. Lowenthal, CA</i>		X		Ms. González-Colón, PR	X		
Mr. Gosar, AZ	X			Mr. Gianforte, MT	X		
<i>Mr. Beyer, VA</i>		X					
Mr. Labrador, ID							
<i>Mrs. Torres, CA</i>		X					
Mr. Tipton, CO	X						
<i>Mr. Gallego, AZ</i>							
Mr. LaMalfa, CA	X						
<i>Ms. Hanabusa, HI</i>		X					
Mr. Denham, CA							
<i>Ms. Barragán, CA</i>		X		TOTAL:	19	15	

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation and the Congressional Budget Act of 1974. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 13, 2017.

Hon. ROB BISHOP,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2423, the Washington County, Utah, Public Lands Management Implementation Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeff LaFave.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 2423—Washington County, Utah, Public Lands Management Implementation Act

H.R. 2423 would direct the Bureau of Land Management (BLM) to issue the necessary rights-of-way to allow for the construction of a road north of St. George, Utah. The bill also would direct the agency to authorize the development of utilities in the Red Cliffs National Conservation Area.

Under H.R. 2423, BLM would not charge Washington County for any rights-of-way issued for the construction of a road because rights-of-way for activities that do not generate income are exempt from such fees. However, any rights-of-way issued for the construction of utilities would be subject to fees. Based on information provided by BLM, CBO estimates that any fees associated with the development of utilities in Washington County would total less than \$500,000 over the 2018–2027 period.

Because enacting the bill could increase offsetting receipts, which are treated as reductions in direct spending, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

CBO estimates that enacting H.R. 2423 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 2423 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. The bill

would benefit the City of St. George in Washington County, Utah, by granting rights-of-way for the construction of a parkway through federal lands.

The CBO staff contacts for this estimate are Jeff LaFave (for federal costs) and Jon Sperl (for intergovernmental mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to implement certain measures relating to management of Washington County, Utah, required by Public Law 111-11.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

DISSENTING VIEWS

H.R. 2423 mandates construction of a road through a portion of the Red Cliffs National Conservation Area (RCNCA) in Washington County, Utah. Congress designated this area “to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the ecological, scenic, wildlife, recreational, cultural, historical, natural, educational, and scientific resources of the National Conservation Area.

Congress never intended to authorize a road through this particular part of the county—the law is clear. Despite that clarity, proponents of the bill misinterpret congressional intent and fault the Bureau of Land Management for failing to authorize the road in the RCNCA planning documents. If Congress wanted a road in a specific location, the law would have said so.

RCNCA makes up about 70% of the Red Cliffs Desert Reserve, which provides critical habitat for the endangered desert tortoise, and was established over twenty years ago as part of Washington County’s multi-species Habitat Conservation Plan (HCP).

The establishment of the reserve and the presence of the HCP—both strengthened by congressionally designated wilderness and the National Conservation Area—have allowed significant development during a prosperous period of growth in Washington County, while also providing significant conservation gains and preventing the extinction of several species.

We are opposed to H.R. 2423 because it threatens the balancing act between conservation and development and is a misrepresentation of congressional intent; the purpose of the RCNCA is conservation, not a conduit for traffic.

RAÚL M. GRIJALVA,
*Ranking Member, Committee
on Natural Resources.*

A. DONALD MCEACHIN.
NANETTE DIAZ BARRAGÁN.
DARREN SOTO.
COLLEEN HANABUSA.
GRACE F. NAPOLITANO.

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