

From the perspective of the City of St. George, the draft resource management plans (RMPs) the BLM released for public comment in 2015 were unacceptable for several reasons that all boil down to a lack of concern for the local economy and local residents. Had the writers of the document made a good faith effort to coordinate with local governments, the draft RMPs could have been planning tools that helped guide resource management in the county. As they were written, without any local input, they are horribly faulty and pose a possible threat to the local economy.

Being the mayor of the largest city in Washington County, I would like to have a friendly working relationship with the local federal land managers. Had I been invited to give input before the draft was released to the general public, I could have explained why some of the decisions in the draft RMPs would kill the growth of my city. Instead, I am left to fight to change the draft that is the product of six years of work. For six years, BLM planners worked on this draft in an office in St. George without ever talking to me or the previous mayor about the management of the National Conservation Area (NCA) that borders my city.

The laundry list of complaints is long, but the major problems from the city's perspective are:

1. The City of St George was excluded (along with all other municipalities in the county) from participating in the formulation of alternatives in the RMPs.
2. The northern transportation route that was provided for in the Omnibus Public Lands Management Act of 2009¹ (OPLMA) is obviously being handled in a way that ensures it will not be built. St. George and surrounding areas need the transportation route for future growth, and the route was specifically bargained for in the negotiations that led to OPLMA.
3. Utility Development Protocols that were worked out for the desert tortoise habitat conservation plan (HCP) that would allow the tortoise and the economy to thrive side-by-side were left out of the RMP². St. George utilities need to be allowed to run through the NCA and maintenance on existing utilities has to be allowed because of the topography of the area.
4. The water rights language in the RMPs threatens growth and development in two ways. First it calls for the BLM obtaining water rights, and second it says the BLM will not authorize land uses that transfer water from the NCAs³. All of the water in the area is allocated. BLM cannot obtain water rights without getting them from

¹ OPLMA Sec 1977 (2)

² See HCP management plan and incidental take permit

³ Page 54 DOI-BLM-UT-C030-2015-1-EIS

someone who currently holds them. St. George has major water supplies under the Red Cliffs NCA and plans to move water across NCA land to supply parts of the city that need additional water.

1. Cooperation

When the desert tortoise was listed as a threatened species, St. George worked with the county, other municipalities, and federal partners to find solutions that would allow the economy to continue to grow while the tortoise also continued to thrive in the area. As a result of that process, the Red Cliffs Desert Reserve was created, the HCP adopted by the interested parties, and eventually, the Red Cliffs NCA was designated. In light of the history of mutual respect and cooperation that went in to the management of the reserve before the creation of the reserve, the city of St. George expected to be treated like a full partner in the creation of the management plan. It came as a shock when the RMPs were released for public comment and seemed to take a stance that was adversarial to the best interests of the local economy. After all of the negotiation and buy-in from stakeholders that led to OPLMA, the city was operating under the assumption that the law would be followed in a way that reflected the intent of Congress in passing OPLMA: to settle land use questions in a cooperative way.

Had the city, or any of the other municipalities, been invited to participate in the planning process, certain misunderstandings could have been avoided. For example, city attorneys could have helped BLM see that the water rights language included in the RMPs was contrary to Utah water law. As another example, if the language from the RMPs proposing introduction of California Condors under the full protection of the Endangered Species Act had been shown to the city during the planning process, the BLM could have been informed that an existing agreement between the USFWS and the local governments would prevent any such introduction. Undoubtedly, several other objectionable points could have been sorted out through communication and inclusion prior to finishing the draft. As it is, the city is left to comment with the public on issues that Congress already spoke to in OPLMA.

2. Northern Corridor

The northern transportation route was specifically called for in OPLMA. Congress said: “In developing the travel management plan, the secretary shall[,] in consultation with appropriate Federal agencies, State, tribal and local governmental entities (including the County and City of St. George City, Utah), and the public, identify 1 or more alternatives for a northern transportation route in the county.”⁴ Not only was St. George City not consulted, as required by law, but the northern transportation route was only allowed for in Alternative D of the RMP.⁵

Alternative B, the preferred alternative had no allowance for a northern transportation route of any kind. Alternative D, the only alternative with any consideration of a route, was written in such a way that it exaggerated the impact of the route and made selecting that alternative virtually impossible. Impacts of a route were analyzed as if six different routes would

⁴ OPLMA Sec 1977 (2)

⁵ Pages 278-285 DOI-BLM-UT-C030-2015-1-EIS

all be built simultaneously and as if all six routes would be multi-lane highways with amenities. Furthermore, the route impacts were combined with possible utility corridors which added to the exaggeration of the potential impacts. Alternative formulation made it clear that BLM was not trying to be true to Congress' directive to study route for a northern corridor. Instead, BLM was trying to kill the idea of a route through tortoise habitat.

St. George is geographically bound by the spectacular rock formations that make the area attractive to visitors and by the rivers that helped shape the landscape. Transportation planning in St. George requires creatively finding routes that serve the needs of the public within the confines of the geography that makes it such a wonderful place to live. Current surface streets will be inadequate to keep up with future population growth. A northern route is needed to move traffic between the municipalities east and west of St. George. Without a northern route, all traffic will be forced to drive through the city of St. George on downtown streets that were not designed to be parkways. Not only would the traffic be too heavy for the existing streets, but it would require more idling of vehicles and more pollution-causing congestion.

As a solution to the traffic problems the city will face in the future, the northern route has been in the planning stages for more than 20 years. During the HCP process, the city was clear that even if the area that is now the Red Cliffs NCA became a reserve, the city would still need a route from east to west. The NCA is currently bisected from north to south by a fenced road. The county is willing to decommission the north/south road to mitigate the impacts of an east/west northern route. The existing road is old and was not designed to be tortoise friendly. The northern route could be designed to allow tortoises to cross underneath it and keep tortoises off the pavement. The northern route would also have a shorter span through the NCA than the current road has. Biologically it would be a net gain for tortoises.

Although St. George and county partners have been willing to meet, plan, and negotiate with federal land managers and wildlife officials, the draft RMP was written without any input from the city. In light of the cooperation that led to the HCP and the clear mandate from Congress to work with the city of St. George, both the lack of cooperation that went into the draft and the slanted alternatives in the draft were an unpleasant to city officials. If an alternative is selected in the final RMP and the subsequent record of decision that does not allow for a northern route, then in a year when the local BLM office is working on a travel management plan, they will be in violation of OPLMA. Congress stated in OPLMA that the Secretary of Interior was to consider one or more routes for a northern corridor *at the travel management stage*.⁶

So far, the local BLM office has held fast to their refusal to soften their stance on the northern corridor. As an explanation for their refusal to include a corridor, the local BLM office keeps telling the city, county, and state that a plan that includes a corridor will get a negative biological opinion from the USFWS. The USFWS is under the same obligation from Congress to find one or more alternatives for a northern route. Congress didn't direct *the BLM* to study a route, Congress directed *the Secretary of Interior* to study one or more route. The USFWS is also

⁶ OPLMA Sec 1977 (2)

under the Secretary of Interior. By pointing fingers at each other, they are both avoiding following through on the statute that Congress passed and the President signed. No amount of finger pointing will change the plain language of the law that requires the Secretary of Interior to study one or more route.

3. Water Rights

Any attempt by a federal agency to obtain water rights in a basin that is fully allocated⁷ looks like a federal overreach to locals. In this arid region, water is our lifeblood and the limiting factor to growth and development. Water planning is serious business in Southern Utah. When language in the BLM draft RMPs suggests that they will be filing on all point sources within the NCA boundaries, buying up water rights, and disallowing land uses that export water from the NCAs, the city of St. George sits up and takes notice.⁸ Water rights and the allocation of water are the purview of the state of Utah. Federal land management agencies should have no part in determining how water is allocated or in obtaining an already scarce resource.

Under the Red Cliffs NCA is a Navajo sandstone aquifer that provides about 10% of the city of St. George's municipal water supply. If that water is not allowed to leave to the NCA, the city will be seriously short of water. Existing water lines that cross the NCAs will need to be maintained over the life of the NCA. Additionally, the city owns water rights north of the NCA that require water to be piped across the NCA to supply residents with clean drinking water. If activities that move water across the NCAs to get them from point of diversion to point of use are disallowed, as much as 37% of the city's water supply will be affected. The Washington County Water Conservancy District partners with municipalities to supply water, and federal land has to be part of that system. We are surrounded and inundated with federal land. State law requires access to water rights. The only way for the residents of St. George to adequately access municipal water is to include public land in the process. In the past, St. George has been able to work with BLM to ensure a stable water supply for our residents. We would like to see that relationship continue and improve.

The local office has stated that the intention of the language in the draft RMP was never to make a big water grab. If this is true, it is another argument for bringing the cities and other local governments into the planning process early, as required by federal law. If those who depend so heavily on the water supply had been asked to offer opinions on the water language before the draft came out, the BLM would have known how upsetting the water language was. Local governments and the Washington County Water Conservancy District could have advised BLM on the conflicts between their plan and state water law. The problem could have been solved before it was released to the public.

4. Utility Development Protocols

Similarly to the water and transportation issues, utility corridors are limited by the geography of the area, but utilities are necessary for the growth and economy of the city.

⁷ According to the Utah Division of Water Rights website, area 81, which covers nearly all of Washington County is considered fully allocated.

⁸ Page 54 DOI-BLM-UT-C030-2015-1-EIS

Because those involved in creating the HCP understood that, utility development protocols (UDPs) were worked out and included in the HCP agreement. The agreed upon protocols were intended to be included in the NCAs. Without the ability to maintain existing utilities and to get new ones to the city, growth will be stunted and the economy will suffer.

Protecting tortoise habitat does not have to stifle the local economy. Balance can be found between the need to protect species and the need to bring utilities in to the residents of St. George. The UDPs in the HCP strike that balance. During the process of drafting OPLMA, locals asked for the UDPs to be included in the law, so language was inserted that allowed for UDPs to be imported into NCA management. The draft RMPs dismiss the UDPs because they don't adequately address mitigation of impacts to other values in the NCAs besides desert tortoises.⁹ With one paragraph, the RMPs dismiss the work that went into making plans for protecting both the tortoises and the local residents.

St. George City would like to see the local BLM office comply with: (1) federal laws requiring consistency with local plans, (2) OPLMAs directive to cooperate with the city in finding a northern transportation route, and (3) OPLMAs spirit of cooperative management. From the city's perspective, Congress' intent was largely ignored in favor of a conservation ideology that disfavors population growth and economy.

⁹ Page 32 DOI-BLM-UT-C030-2015-1-EIS