

Committee on Natural Resources

Rob Bishop, Chairman
Markup Memorandum

July 24, 2017

To: All Natural Resources Committee Members

From: Majority Committee Staff, Aniela Butler
Subcommittee on Federal Lands, (x6-7736)

Markup: **H.R. 2423 (Rep. Chris Stewart)**, To implement certain measures relating to management of Washington County, Utah, required by Public Law 111-11. **June 25 & 26, 2017; 1324 Longworth HOB.**

H.R. 2423 (Rep. Stewart), “Washington County, Utah, Public Lands Management Implementation Act”

Summary of the Bill

H.R. 2423, introduced by Rep. Chris Stewart (R-UT-02), directs the Secretary of the Interior to implement a portion of Public Law 111-11, the Omnibus Public Land Management Act of 2009, by granting all necessary rights-of-way for a northern transportation route and authorizing the development of utilities in Washington County, Utah.

Cosponsors

None

Background

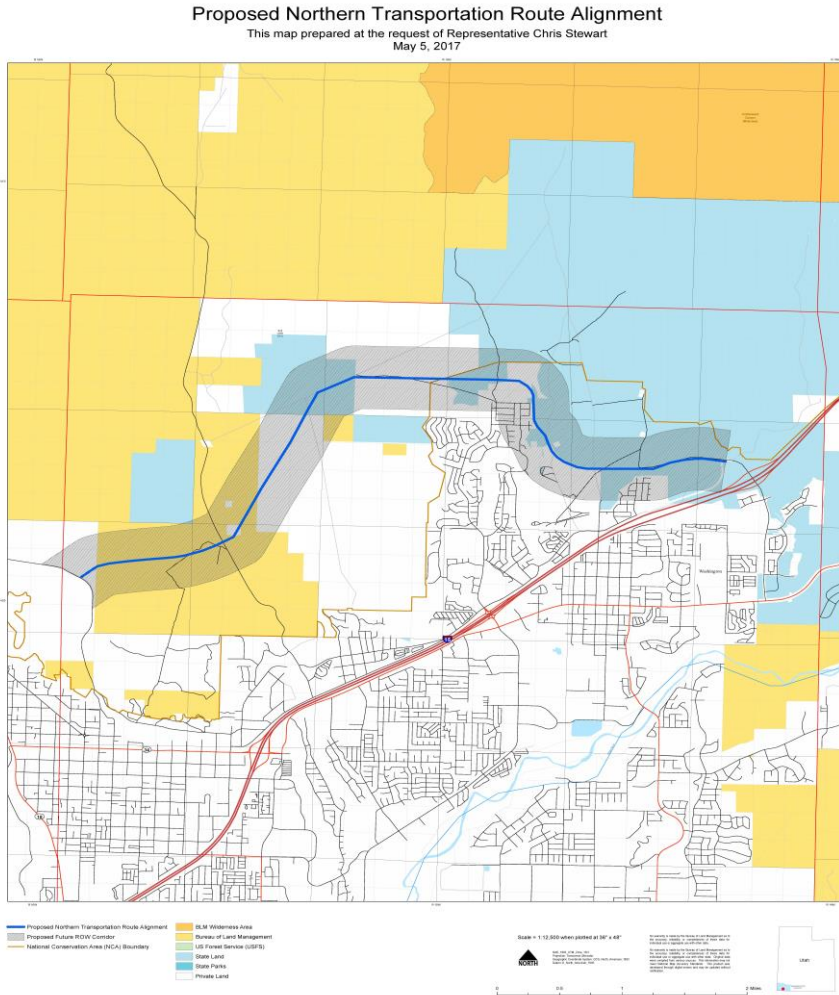
The Omnibus Public Land Management Act of 2009 (OPLMA) included several provisions that affected public land management in Washington County, Utah. Title 1, Subtitle O, of the Act designated 16 new Wilderness areas; released several Wilderness Study Areas; created the 44,725-acre Red Cliffs National 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.¹

In addition, OPLMA included a provision for the Bureau of Land Management (BLM) to develop a Washington County Comprehensive Travel and Transportation and Management Plan

¹ P.L. 111-11.

that identified “1 or more alternatives for a northern transportation route in the County.”² 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.

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In order to implement the Washington County provisions of OPLMA, the 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, the BLM finalized the Records of Decision for the approved management plans.⁴ The final RMPs incorporated components of the four alternatives considered during the planning process, but primarily resembled Alternative B, the 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.”⁵ Despite repeated requests from the County and City, the finalized RMPs did not include a northern transportation route or any utility corridors.

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 number 6 nationwide for fastest growing metro areas.⁶ The Governor’s office expects Washington County’s population to grow from 147,800 in 2013 to

² Ibid.

³ Map provided courtesy of the Bureau of Land Management on May 5, 2017, to Representative Chris Stewart.

⁴ 81 FR 93707.

⁵ 81 FR 60731.

⁶ 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/>.

334,800 by 2040.⁷ For over two decades, the County worked on developing a transportation corridor north of the City 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.⁸ 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.

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 constructing 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.⁹ 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.¹⁰ During the draft RMP phase, the U.S. Fish & Wildlife Service (FWS) opposed the County's proposed northern transportation route based on purported impacts to desert tortoise in the area.¹¹ However, County officials believe BLM and FWS did not adequately consider studies pointing to a minimal impact on desert tortoise habitat due to the road.¹²

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.¹³ Despite being authorized in the HCP and language in OPLMA protecting the utilities, the BLM did not include the utility corridors when finalizing their RMPs. Without the corridors to create new infrastructure for utilities, St. George will struggle to sustainably grow its economy and population.

When negotiating the provisions of OPLMA, the County pushed for the inclusion of a northern transportation route and utility corridors in exchange for the new conservation areas and

⁷ Dixie Metropolitan Planning Organization, "2015-2040 Regional Transportation Plan", 06/17/15, <https://dixiempo.files.wordpress.com/2016/03/full-document--final.pdf>.

⁸ 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/#.WRtI0PnytGo>.

⁹ Jacobs and Logan Simpson Design Inc., "Washington Parkway Study", September 2012, https://dixiempo.files.wordpress.com/2012/12/nwp_final_report.pdf.

¹⁰ Ibid.

¹¹ U.S. Fish & 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.

¹² Washington 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.

¹³ Testimony 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.

agreed to the language with the assurance the BLM would authorize the route. The language in OPLMA regarding the development of the northern transportation route specifically required the BLM to consult “appropriate Federal agencies, State, tribal, and local governmental entities (including the County and St. George City, Utah.”¹⁴ However, in a field hearing in St. George in January 2016, Mayor Jon Pike stated that the BLM “excluded [the City] (along with all other municipalities in the county) from participating in the formulation of alternatives in the RMPs.”¹⁵ 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.

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 the BLM excluded from their 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 Habitat Conservation Plan. This language reflects the compromises the County negotiated in good-faith with BLM 8 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.

Major Provisions of the Bill

- Directs the Secretary of the Interior to grant any necessary rights-of-way for the northern transportation route identified in section 1977(b)(2)(A) of Public Law 111-11.
- Directs the Secretary of the Interior to authorize the development of utilities described in section 1974(h) of Public Law 111-11 consistent with the Washington County Habitat Conservation Plan and other applicable laws.

Cost

A Congressional Budget Office cost estimate has not yet been completed for this bill.

Administration Position

The administration position is unknown during this time.

Anticipated Amendments

None.

Effect on Current Law

None.

¹⁴ P.L. 111-11.

¹⁵ Testimony 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.