

**TESTIMONY OF RICHARD SPOTTS FOR THE AUGUST 22, 2018 HEARING OF
THE SUBCOMMITTEE ON PUBLIC LANDS, FORESTS, AND MINING
RELATING TO S. 3297, WASHINGTON COUNTY, UTAH, PUBLIC LAND ACT**

Mr. Chairman and Members of the Subcommittee:

I am Richard Spotts, a nearly sixteen-year resident of Washington County Utah. I am testifying as a concerned private citizen with an extensive background, both professionally and as a volunteer, on public lands and environmental issues. I recently retired after a career spanning four decades, with jobs that included attorney, lobbyist, watershed project director, and county zoning administrator. During my career, I often dealt with issues involving the National Environmental Policy Act (NEPA), Endangered Species Act (ESA), and other federal laws. Indeed, in my last two jobs prior to retirement, I served as a NEPA expert for the National Park Service at Fire Island National Seashore and the Bureau of Land Management at the Arizona Strip District Office. As a volunteer, I have closely followed many public lands and environmental issues in Washington County and elsewhere in the region. I believe that my lengthy background on these laws and issues qualifies me to understand what is at stake with S. 3297, the Washington County, Utah, Public Land Act.

After reviewing this legislation in detail, and knowing the appropriate factual context, I firmly believe that S. 3297 represents an egregious attack on the NEPA, ESA, and National Conservation Areas (NCAs) statutorily established by Congress and administered by the Bureau of Land Management (BLM). S. 3297 would circumvent the normal and appropriate processes for considering revisions under these laws.

The Washington County Utah commissioners and their staff drafted this legislation because they disrespect and do not wish to follow those normal and appropriate revision processes. Their intent is to get around, shortcut, and supersede existing federal conservation laws and BLM NCA plans through enactment of S. 3297. They seek to substitute their decisions for those of the relevant federal officials. This would essentially delegate federal management to county control, and thereby subvert and abdicate the proper management of federal lands and resources. If S. 3297 is enacted, it would establish a very dangerous and damaging national precedent. Indeed, this could lead to a plethora of similar county-sponsored bills inundating Congress and asking for the same preferential treatment.

Washington County is now reportedly the fastest growing county in the nation. This explosive growth is creating much wealth for developers, land speculators, and construction-related business owners, while it also creates more traffic, sprawl, noise, and other challenges for residents. Unfortunately, the county commissioners have placed their highest priorities on serving the narrow interests of these well-connected developers, land speculators, and construction-related business owners, while giving short shrift to the broad public interest in pursuing smarter land use and transportation planning.

For example, there is a long-running intense controversy in Washington County surrounding the proposed Northern Corridor highway. S. 3297 would force the

construction of this highway in violation of the existing Habitat Conservation Plan (HCP) established under the ESA and in violation of the final BLM Red Cliffs NCA Plan. This highway would destroy and fragment significant habitat for the ESA listed threatened Mojave desert tortoise as well as many other wildlife species in two supposedly protected areas, the HCP established Red Cliffs Desert Reserve and the BLM Red Cliffs NCA.

Beyond compelling construction of this highway, S. 3297 has other destructive provisions that would allow the county to achieve its objectives for utilities development, road rights-of-way, water rights, and livestock grazing. These statutory provisions would essentially supersede the existing administrative provisions in the current HCP and two BLM NCA Plans (Red Cliffs and Beaver Dam Wash).

From a due process and democratic involvement perspective, S. 3297 is appalling. It would substitute crass Congressional fiat for the current legal processes under the NEPA and ESA for an objective environmental analysis, fair evaluation of feasible alternatives, application of scientific information, and meaningful opportunities for public input with respect to the county's requests to renew the HCP and build the proposed Northern Corridor highway.

S. 3297 is clearly part of the larger Utah political pattern of trying to wrest control over federal lands and resources away from the federal agencies charged with managing them in the national interest. This is an outrageous threat to the birthright of all Americans to these federal lands and resources. The legislation would not be necessary if Washington County officials were willing to follow existing law and the well-established procedures under the NEPA and ESA. Instead, they want to avoid transparency and ram through their own one-sided "wish list" in Congress.

The proponents of S. 3297 are attempting to use the cynical ploy of purporting to expand tortoise conservation but this is merely a smokescreen to confuse the public and conceal the legislation's actual nefarious purposes. For example, S. 3297 would create a new so-called Zone 6 tortoise mitigation area. However, this area already in large part consists of either a BLM Area of Critical Environmental Concern (ACEC) or Utah state lands that may remain in state ownership for the foreseeable future. As such, the alleged mitigation benefit is illusory.

Indeed, the Desert Tortoise Council (DTC) is the premier organization that represents professional desert tortoise biologists and related experts, and it vigorously opposes S. 3297. I am providing a copy of the DTC's recent letter in opposition to S. 3297, which I hereby wish to incorporate by reference in my testimony. Among other things, this letter provides detailed reasons on why the Northern Corridor highway would be extremely harmful to tortoise conservation and contrary to the HCP and ESA, and why the promised mitigation benefit is bogus. I encourage the Subcommittee members to carefully review this DTC letter.

In conclusion, I respectfully request that the Subcommittee members oppose and vote against S. 3297.

Thank you very much for your consideration of my testimony.

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