



United States Department of the Interior

FISH AND WILDLIFE SERVICE Mountain-Prairie Region



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FINDING OF NO SIGNIFICANT IMPACT

Utah Division of Wildlife Resources Proposed Washington County HCP Federal Land Disposal and Acquisition of Replacement Lands in Washington County, Utah

INTRODUCTION:

The U.S. Fish and Wildlife Service (FWS) has prepared this document in accordance with the procedures for compliance with the National Environmental Policy Act (NEPA) of 1969,¹ as amended, and as it applies to the Cooperative Endangered Species Conservation Fund Program (Section 6 of the Endangered Species Act). The Utah Division of Wildlife Resources (UDWR) has requested the FWS's approval to dispose of 47 acres within the Red Cliffs Desert Reserve (8.4 acres from parcel W-5-2-3-311 and 38.6 acres from parcel 6100-B) from the legal description of the 2001 Patent Number 19497 (Section 6 grant #E-4-L-3) in Washington County, Utah, which was acquired for the conservation of the Mojave desert tortoise (*Gopherus agassizii*) in accordance with the Habitat Conservation Plan Land Acquisition Section 6 funding. The disposed lands will be replaced with lands of equal habitat and monetary value through the acquisition of 450 acres in Washington County, Utah, and additional monetary compensation to address different land appraisal values between the disposed parcels and the acquired parcels. The FWS's approval of this land disposal and acquisition constitute federal actions subject to provisions of NEPA, including the preparation of an environmental assessment (EA) to evaluate the potential impacts of the proposed action on the human environment.

¹ Executive Order 14154, Unleashing American Energy (Jan. 20, 2025), and a Presidential Memorandum, Ending Illegal Discrimination and Restoring Merit-Based Opportunity (Jan. 21, 2025), require the Department to strictly adhere to the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 et seq. Further, such Order and Memorandum repeal Executive Orders 12898 (Feb. 11, 1994) and 14096 (Apr. 21, 2023). Because Executive Orders 12898 and 14096 have been repealed, complying with such Orders is a legal impossibility. The U.S. Fish and Wildlife Service verifies that it has complied with the requirements of NEPA, including the Department's regulations and procedures implementing NEPA at 43 C.F.R. Part 46 and Part 516 of the Departmental Manual, consistent with the President's January 2025 Order and Memorandum. The U.S. Fish and Wildlife Service has also voluntarily considered the Council on Environmental Quality's rescinded regulations implementing NEPA, previously found at 40 C.F.R. Parts 1500–1508, as guidance to the extent appropriate and consistent with the requirements of NEPA and Executive Order 14154.

ENVIRONMENTAL ANALYSIS:

The FWS prepared and posted a draft EA that was released for a 30-day public review and comment period from November 24, 2025, to December 24, 2025 (<https://www.fws.gov/media/washington-county-hcp-section-6-land-disposal-and-acquisition-replacement-lands>). No substantive public comments were received regarding the proposed federal land disposal of 47 acres and acquisition of 450 replacement acres during the public comment period. However, we did receive one public comment submittal after the comment period and have included our responses to those comments as Appendix A to this FONSI. Therefore, a final EA entitled Final Environmental Assessment, Washington County HCP Section 6 Land Disposal and Acquisition of Replacement Lands, and attached appendices, have been prepared to comply with NEPA requirements and to assist in the FWS's decision-making to determine whether to prepare an environmental impact statement.

A Proposed Action and a No Action Alternative were analyzed in the EA. The Proposed Action is to dispose of 47 acres within the Red Cliffs Desert Reserve to accommodate a Utah Department of Transportation (UDOT) right-of-way for the Northern Corridor Highway. UDWR would also acquire 450 acres in eleven parcels to provide the conservation values that would be lost as a result of the disposal; these replacement lands would become federally encumbered and subject to the authorized purpose of the original federal grant (Grant #E-4-L-3). Further, due to different appraised land values between the 47 acres proposed for disposal and the 450 acres proposed for acquisition, UDOT would compensate UDWR and the FWS for the difference in land values.

The UDWR has determined that construction of the highway would result in a direct loss of 47 acres of tortoise habitat within Section 6 lands and an indirect loss of another 290 acres; the project would result in a total loss of 337 acres of tortoise habitat within Section 6 lands. This represents approximately 11 percent of the Section 6 lands within the Red Cliffs Desert Reserve. The UDWR will subsequently acquire 450 acres in eleven parcels that would be incorporated into the Red Cliffs Desert Reserve and that would provide similar long-term habitat and conservation value for desert tortoise and other wildlife and plants as the original award (Grant #E-4-L-3).

Under the No Action Alternative, the UDWR would retain ownership and management of the 8.4 acres in parcel W-5-2-3-311 and 38.6 acres in parcel 6100-B and a right-of-way for the Northern Corridor Highway would not be granted to UDOT. UDWR would not require the replacement of these lands.

DEGREE OF EFFECTS:

The following have been considered in my evaluation of the selected alternative:

i. Short- and long-term effects

The disposal of 47 acres within from Grant #E-4-L-3 would result in the long-term loss of 47 acres of conservation value for desert tortoise and other wildlife. In the short term, activities previously restricted under the grant may now occur on these lands. The acquisition of 450 acres of land within the Zone 6 area would offset the loss of those 47 acres and would provide similar long-term habitat and conservation value for desert tortoise and other wildlife and plants as the original award. Impacts on the 450 acres of habitat would be restricted by the conditions of Grant #E-4-L-3; such restrictions would preserve habitat for desert tortoise and other wildlife.

The effects to the parcels proposed for disposal related to the construction and operation of the Northern Corridor Highway were previously analyzed and disclosed in both the 2020 Final Environmental Impact Statement to Consider a Highway Right-of-Way, Amended Habitat Conservation Plan and Issuance of an Incidental Take Permit for the Mojave Desert Tortoise, and Proposed Resource Management Plan Amendments, Washington County, UT and in the 2024 Final Supplemental Environmental Impact Statement to Reconsider a Highway Right-of-Way Application and Associated Amendment of an Incidental Take Permit, Washington County, Utah.

ii. Beneficial and adverse effects

This action would adversely affect soils, wildlife and their habitats, and vegetation on the 47 acres proposed for disposal as these lands would no longer be restricted by the conditions of Grant #E-4-L-3. Removal of these protections is likely to result in activities occurring that were previously prohibited under the grant that may adversely affect desert tortoise, critical habitat, and other wildlife, soil, and vegetative resources. Additionally, the disposal of these lands would fragment other parcels acquired with Section 6 funds to the south and east of the parcels proposed for disposal. The entirety of the 47 acres proposed for disposal are desert tortoise habitat, all of which are designated critical habitat for the species. These lands are within areas of primarily medium to low relative tortoise density within Red Cliffs Desert Reserve. Acquisition and subsequent protection of 450 acres in the Zone 6 area would provide beneficial effects through the permanent protection of important desert tortoise habitat in Washington County, at a ratio of greater than 9:1 of the acres proposed for disposal. The acquisition lands will provide replacement land of equal habitat and monetary value and additional monetary compensation for wildlife conservation. All 450 acres contain suitable habitat for desert tortoise; these lands are within areas of primarily high to medium relative desert tortoise density. The entirety of the proposed Zone 6 area supports the largest and most dense population of desert tortoise outside of the original boundaries of the Red Cliffs Desert Reserve. The protections afforded by the conditions of the grant would be beneficial for the conservation of desert tortoise.

The effects to the parcels proposed for disposal related to the construction and operation of the Northern Corridor Highway were previously analyzed and disclosed in both the 2020 Final Environmental Impact Statement to Consider a Highway Right-of-Way, Amended Habitat Conservation Plan and Issuance of an Incidental Take Permit for the Mojave Desert Tortoise, and

Proposed Resource Management Plan Amendments, Washington County, UT and in the 2024 Final Supplemental Environmental Impact Statement to Reconsider a Highway Right-of-Way Application and Associated Amendment of an Incidental Take Permit, Washington County, Utah.

iii. Effects on public health and safety

The proposed disposal and subsequent acquisition of lands would have no effect on public health and human safety. The effects to the parcels proposed for disposal related to the construction and operation of the Northern Corridor Highway were previously analyzed and disclosed in both the 2020 Final Environmental Impact Statement to Consider a Highway Right-of-Way, Amended Habitat Conservation Plan and Issuance of an Incidental Take Permit for the Mojave Desert Tortoise, and Proposed Resource Management Plan Amendments, Washington County, UT and in the 2024 Final Supplemental Environmental Impact Statement to Reconsider a Highway Right-of-Way Application and Associated Amendment of an Incidental Take Permit, Washington County, Utah.

iv. Economic effects

The proposed disposal and subsequent acquisition of lands would have no effect on economics. The effects to the parcels proposed for disposal related to the construction and operation of the Northern Corridor Highway were previously analyzed and disclosed in both the 2020 Final Environmental Impact Statement to Consider a Highway Right-of-Way, Amended Habitat Conservation Plan and Issuance of an Incidental Take Permit for the Mojave Desert Tortoise, and Proposed Resource Management Plan Amendments, Washington County, UT and in the 2024 Final Supplemental Environmental Impact Statement to Reconsider a Highway Right-of-Way Application and Associated Amendment of an Incidental Take Permit, Washington County, Utah.

v. Effects on the quality of life of the American people

The disposal of 47 acres within Red Cliffs Desert Reserve would remove those lands as a public resource for recreational use; however, the acquisition of 450 acres would protect an important area of recreation and conservation value in Washington County, Utah.

DETERMINATION:

Based on a review of the Final EA, I find that the proposed action is not a major federal action that would significantly impact the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969. I also find that all reasonable alternatives were considered in the evaluation of the proposed project and that this project complies with the intent of the National Historic Preservation Act, Executive Order 11988 “Floodplain Management,” and Executive Order 11990 “Protection of Wetlands.”

Pursuant to Section 7 of the Endangered Species Act, the proposed project may affect and is likely to adversely affect the desert tortoise and its designated critical habitat. In consulting with the FWS for the proposed Northern Corridor right-of-way, the Bureau of Land Management (BLM) included the action for approving the disposition of Endangered Species Act Section 6 lands and acquisition of replacement lands in their Endangered Species Act Section 7 consultation request. BLM requested formal consultation on October 2, 2025, and we issued a final Biological Opinion for the project on November 25, 2025.

Consequently, I have determined that an environmental impact statement is not required. The Final EA is on file at the Office of Conservation Investment, U.S. Fish and Wildlife Service, Denver Federal Center, 1 Denver Federal Center, Building 53, Room FW 100, Denver, Colorado, 80228, and is also available online at: <https://www.fws.gov/library/collections/office-conservation-investment-nepa-documents>.

Signature	Date
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References:

Final Environmental Assessment, Washington County HCP Section 6 Land Disposal and Acquisition of Replacement Lands. February 4, 2026. Utah Division of Wildlife Resources and U.S. Fish and Wildlife Service.

APPENDIX A. COMMENT RESPONSES

Comment ID	Public Concern Statement or Comment	Response
1	Request to re-open and extend the public comment period due to inadequate notice and lack of reasonable opportunity for public input.	<p>Appendix 3 of 516 DM 1 – U.S. Department of the Interior Handbook of National Environmental Policy Act Implementing Procedures states: “NEPA does not require public involvement when a bureau prepares an EA. Therefore, the Responsible Official has discretion to determine whether to involve the public, when to involve the public, and what kind of public involvement is most appropriate when the bureau is preparing an EA to support decision-making on a proposed action and anticipates reaching a Finding of No Significant Impact (FONSI)... If the Responsible Official elects to invite public review or comment on an EA or a draft document, such as a draft EIS, the Responsible Official should publish such material for review. If the Responsible Official publishes such material for public review, specify the period, preferably no more than 30 days, when possible, and method for comments.” The FWS published the EA on our website for a 30-day public comment period. Further, the State of Utah issued a public notice of availability of the EA on their public notices website the day the draft EA was published (https://www.utah.gov/pmn/sitemap/notice/977491.html) with information on where to find the EA and how to comment. This EA notification process is consistent with how the FWS handles grant amendments with state wildlife agencies. As such, we deny the request for extending the public comment period for the EA.</p>

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2	Request that FWS accept and consider substantive comments provided in this letter and attachments.	The respondent provided comments in their letter and while it was received after the public comment period, we have decided to consider these comments as part of the public record and have responded to these comments as an appendix to the FONSI.
3	The EA ignores a critical shortcoming of the properties that Washington County presently owns and would transfer to UDWR. Regardless of FWS's statement that UDWR's new lands would be "federally encumbered and subject to the authorized purpose of the original federal grant," the grant restrictions are necessarily limited in application to only what property interest UDWR would own following the land exchange. These exceptions include mineral rights, sand/gravel/access easements, and utilities easements. Because of these exceptions and reservations, the conservation value of the land that UDWR proposes to acquire and then place under coverage of an amended Section 6 grant is undercut by the limited nature of the property interest at issue and the ongoing risk of development and degradation.	Under the original transaction for the affected parcels within Zone 3 that the UDWR acquired from the Utah Trust Lands Administration (TLA, formerly SITLA), similar exceptions, including mineral activities, were attached to the acquired parcels (see EA Appendix A. Patent No. 19497). These exceptions are comparable to those on the 450 acres of proposed replacement parcels. As a result, the conservation values of the original and replacement parcels remain equivalent. Additionally, surface disturbance to access or develop those mineral rights cannot occur without development of a separate Habitat Conservation Plan and a commitment to fully offset adverse effects to desert tortoises and their habitat. The federal encumbrances applied to the 450 acres would also require TLA to further compensate for the lost conservation and land values of those lands.

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4	<p>The analysis of the zone of impact from the highway is not based on rational decision-making and significantly underestimates indirect impacts to the desert tortoise. The impact from a heavily-used highway without exclusion fencing can extend more than four kilometers from the road—almost ten times the FEIS’s 508-meter buffer. Studies have shown that tortoise populations can “be depressed from less than 175 meters to up to 4.6 kilometers from a roadway” (see Attachment A at pp. 220, 226, 287, 552, 682, 719). BLM’s 2020 analysis failed to justify its indirect impacts analysis area against the anticipated size of and amount of traffic to use the highway, which would influence the zone of impact to tortoises. By deriving this EA from BLM’s 2020 analysis and the 508-meter buffer therein, FWS repeats the same error here.</p>	<p>This analysis is consistent with the methodology used in both the FEIS and SEIS and based upon best available science for the Mojave desert tortoise. The Final EIS states, “The analysis area for indirect effects from the Northern Corridor alternatives in the Reserve that require construction of a new roadway includes suitable Mojave desert tortoise habitat within 508 meters on either side of the ROW.” The 508-meter buffer is based on the annual home range size of an adult male Mojave desert tortoise of 200 acres (Franks et al. 2011, FWS 2011a). The annual home range was applied because of the short-term indirect effects of noise, vibration, and other construction-related disturbances, as well as the continued noise and vibrations from traffic and maintenance of the road. The indirect effects analysis also considers the impacts of fragmentation from the main population within the Reserve Zone 3. The area for long-term effects due to fragmentation by the road extends from the ROW to the southern boundary of the Reserve.</p>
5	<p>Another indirect effect from the highway on desert tortoise is the spread of non-native plants, which reduces forage quality and increases the risk of fire within tortoise habitat, and these impacts extend well beyond the 508-meter buffer primarily relied upon in this EA as well. The EA briefly acknowledges such indirect vegetation effects reaching up to one kilometer, but fails to reasonably address the magnitude of these impacts to vegetation on wildlife species like Mojave desert tortoise.</p>	<p>This analysis is consistent with the methodology used in both the FEIS and SEIS and based upon best available science for the Mojave desert tortoise. The Final EIS states, “The analysis area for indirect effects from the Northern Corridor alternatives in the Reserve that require construction of a new roadway includes suitable Mojave desert tortoise habitat within 508 meters on either side of the ROW.” The 508-meter buffer is based on the annual home range size of an adult male Mojave desert tortoise of 200 acres (Franks et al. 2011, FWS 2011a). The effects of non-native, or exotic, plants are considered in the EA, as well as the FEIS and SEIS for effects to Mojave desert tortoise.</p>

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6	Noise from construction and use of the highway is another impact that has negative effects on Mojave desert tortoise. And although the EA briefly mentions such effects in the context of the 508-meter buffer (pp. 11-12), it fails to justify the choice of this distance or explain the basis for determining how far noise impacts might extend from the highway.	This analysis is consistent with the methodology used in both the FEIS and SEIS and based upon best available science for the Mojave desert tortoise. The 508-meter buffer is based on the annual home range size of an adult male Mojave desert tortoise of 200 acres (Franks et al. 2011, FWS 2011a). The annual home range was applied because of the short-term indirect effects of noise, vibration, and other construction-related disturbances, as well as the continued noise and vibrations from traffic and maintenance of the road.

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7	<p>As the table at EA page 9 illustrates, Section 6 lands within one kilometer of the right of way (itself an insufficient buffer to accurately capture impacts) total 665 acres, far more than the 450 acres proposed to be acquired to compensate for the damage. The EA fails to provide a substantive or quantitative rationale for how the agency weighs the value of the disposed lands versus the total value of those to be acquired; although it qualitatively discusses some broad impressions of the conservation values and losses in both areas, FWS does not sufficiently or rationally explain why the proposed action would indeed result in “at least the same conservation value” under Section 6.</p>	<p>Lands acquired with Endangered Species Act Section 6 funding must be managed according to the grant’s original authorized purpose. In the event that the terms and conditions for long-term conservation set forth in the grant are not fully complied with, the property acquired through the grant is subject to transfer, replacement, or repayment to the United States. Any decision to transfer or replace Section 6 lands are subject to negotiation between FWS and the State of Utah.</p> <p>Land outside of the right-of-way will continue to be managed for the purpose of the grant and will maintain the long-term conservation goal for Mojave desert tortoise. While some lands outside of the right-of-way may experience indirect effects and thus reduced conservation value, they will still contribute to Mojave desert tortoise conservation and be managed for the purpose of the grant. The 47 acres proposed for disposal will no longer provide conservation value for Mojave desert tortoise. By acquiring the 450 acres, impacted lands will be replaced at approximately a 9:1 ratio. As described in the EA, these 450 acres are suitable habitat for Mojave desert tortoise, and these lands are within areas of primarily high to medium relative desert tortoise density. Further, to address differences in the appraised land values between the 47 acres to be disposed and the 450 acres to be acquired, the UDOT will monetarily compensate UDWR and the FWS for the difference; this information has been added to the final EA.</p>

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8	<p>The agency has erred in the evaluation of the zone of impact of the proposed highway and has too narrowly evaluated the geographic scope of impact of the right-of-way and effects on desert tortoise and other environmental factors. Therefore, the EA underestimates the analysis area through which to evaluate the loss of conservation value across Section 6 lands affected by the disposal.</p>	<p>The analysis provided in the EA is consistent with the methodology used in both the FEIS and SEIS. The Final EIS states, “The analysis area for indirect effects from the Northern Corridor alternatives in the Reserve that require construction of a new roadway includes suitable Mojave desert tortoise habitat within 508 meters on either side of the ROW.” The 508-meter buffer is based on the annual home range size of an adult male Mojave desert tortoise of 200 acres (Franks et al. 2011, FWS 2011a). Lands outside of the ROW will continue to be managed for the purpose of the grant and will maintain the long-term conservation goal for Mojave desert tortoise. While some lands outside of the ROW may experience indirect effects and thus reduced conservation value, they will still contribute to Mojave desert tortoise conservation and be managed for the purpose of the grant. The 47 acres proposed for disposal will no longer provide conservation value for Mojave desert tortoise and will be replaced at a value of approximately 9:1 as well as with monetary compensation to account for differences in appraised land values between the parcels proposed for disposal and parcels proposed for acquisition.</p>

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9	<p>The purported Section 6 offset from the proposed action is being overstated because of the overlap between the proposed lands to be acquired and the new reserve Zone 6 that would accompany approval of the highway right-of-way. The purported additional protections afforded by the existence of Zone 6, for example, must be discounted by the proposed encumbrances of a Section 6 grant to UDWR on 450 acres within that zone. Section 6 lands have special wildlife protections which would apply irrespective of the creation of Zone 6, and the purported Zone 6 protections would apply to the proposed acquired acreage regardless of modification of UDWR's Section 6 grant. Thus, the federal agencies cannot double-count or overinflate the conservation value of the separate actions when evaluating either in isolation.</p>	<p>The protections of the 450 acres from the establishment of Zone 6 as part of Washington County's Habitat Conservation Plan Northern Corridor Changed Circumstances does provide for protection of those lands from most development and other covered activities. While the TLA does own the mineral rights to the 450 acres, under the protections of Zone 6 from the HCP, surface disturbance to access or develop those mineral rights cannot occur without development of a separate Habitat Conservation Plan and a commitment to fully offset adverse effects to desert tortoises and their habitat. Similarly, the federal encumbrances applied to the 450 acres would also require TLA to further compensate for the lost conservation and land values of those lands, either in the form of acquiring additional acreage, which is the preferred option, or by compensating UDWR and the FWS for the lost conservation and land values. These encumbrances would apply regardless of whether the Northern Corridor Changed Circumstances and the Zone 6 protections are in place or not. Further, under the Washington County HCP, the long-term goal is to protect all lands within the Red Cliffs Desert Reserve (including lands in Zone 6 under the Northern Corridor Changed Circumstances) by placing those lands in protected status through federal ownership or federal oversight, and the transfer of these 450 acres to UDWR with federal encumbrances via a Section 6 grant furthers those efforts.</p>