

115TH CONGRESS
2D SESSION

S. 2531

For the determination of the taking of private property and damages caused
by the Department of Interior.

IN THE SENATE OF THE UNITED STATES

MARCH 8, 2018

Mr. HATCH (for himself and Mr. LEE) introduced the following bill; which was
read twice and referred to the Committee on the Judiciary

A BILL

For the determination of the taking of private property and
damages caused by the Department of Interior.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Red Cliffs Desert Re-
5 serve Completion Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) in the early 1980s, James Doyle, doing
9 business as Rocky Mountain Ventures and Environ-
10 mental Land Technologies, Ltd., began assembling

1 land for a massive real estate development in the
2 rapidly growing St. George area of Utah;

3 (2) the centerpieces of this development were 9
4 golf courses surrounded by luxury homes;

5 (3) during the 1980s, James Doyle acquired
6 2,440 acres and held preferential rights to an addi-
7 tional 11,000 acres for this development;

8 (4) throughout the 1980s and into the 1990s,
9 James Doyle invested large amounts of money to ac-
10 quire and develop this land, including—

11 (A) procuring the water rights and engi-
12 neering studies;

13 (B) developing proposals and designs for
14 transportation corridors;

15 (C) constructing 1 golf course and design-
16 ing nine more;

17 (D) developing utility layouts and place-
18 ments;

19 (E) installing necessary sewer, water, and
20 power for the various properties; and

21 (F) securing all necessary zoning adjust-
22 ments and development permissions;

23 (5) with planning and preparation essentially
24 complete by 1989, James Doyle was prepared to
25 break ground for the initial phase of his project;

1 (6) on April 2, 1990, the United States Fish
2 and Wildlife Service published a final rule listing the
3 Mojave population of the desert tortoise as “threat-
4 ened” under the Endangered Species Act of 1973
5 (16 U.S.C. 1531 et seq.);

6 (7) on February 8, 1994, the United States
7 Fish and Wildlife Service published a final rule des-
8 ignating all of James Doyle’s land as critical habitat
9 for the Mojave population of the desert tortoise;

10 (8) the listing of the desert tortoise and des-
11 ignation of James Doyle’s land as critical habitat for
12 the tortoise made James Doyle’s planned land devel-
13 opment, as well as that of other nearby lands, un-
14 lawful without the issuance of an incidental take
15 permit by the United States Fish and Wildlife Serv-
16 ice;

17 (9) in response to the designation, James
18 Doyle, as a member of the Habitat Conservation
19 Plan Steering Committee, worked with other land-
20 owners, as well as Federal, State, and county offi-
21 cials, to create a Habitat Conservation Plan covering
22 Washington County that would have allowed James
23 Doyle to develop a portion of his land;

1 (10) the United States Fish and Wildlife Serv-
2 ice rejected the plan, stating that the plan set aside
3 insufficient land to protect the tortoise;

4 (11) James Doyle and the Steering Committee
5 prepared a revised Habitat Conservation Plan, which
6 the United States Fish and Wildlife Service ap-
7 proved on February 23, 1996;

8 (12) the approved Habitat Conservation Plan
9 allowed the development of 350,000 acres of tortoise
10 habitat, and set aside 61,022 acres, including all of
11 James Doyle's land, as protected tortoise habitat re-
12 serve where no development was allowed;

13 (13) to this end, the Habitat Conservation Plan
14 expressly provided that the United States Fish and
15 Wildlife Service would issue no incidental take per-
16 mits for desert tortoises on reserve lands;

17 (14) in return for placing the land in the tor-
18 toise reserve, the United States promised that it
19 would acquire title to all of the private land, includ-
20 ing James Doyle's, by exchange or purchase at fair
21 market value;

22 (15) despite extensive negotiations, the United
23 States acquired only about 400 acres of James
24 Doyle's land for the tortoise reserve, leaving the re-
25 mainder of his acreage vacant and unproductive;

1 (16) as the years passed, James Doyle's inabil-
2 ity to develop or sell this remaining acreage resulted
3 in severe financial limitations, leaving him unable to
4 service the mortgages he had incurred on the land
5 to finance acquisition and development costs;

6 (17) on March 30, 2004, unable to develop, ex-
7 change, or sell the land, in which James Doyle had
8 invested millions of dollars, James Doyle was forced
9 to seek bankruptcy protection;

10 (18) in 2010, James Doyle completed, and the
11 bankruptcy court approved, a plan under which
12 James Doyle was required to transfer to his credi-
13 tors all but 274 acres of his land, which he still owns
14 but cannot develop;

15 (19) in 2015, James Doyle filed suit in the
16 United States Court of Federal Claims, seeking just
17 compensation for the land that has served as a tor-
18 toise reserve since 1996, and was taken without
19 compensation;

20 (20) the United States Court of Federal Claims
21 dismissed James Doyle's claim, without prejudice,
22 ruling that he must first seek and be denied a
23 United States Fish and Wildlife Service permit to
24 develop his land, even though it is within the Red

1 Cliffs Desert Reserve where no development is al-
2 lowed; and

3 (21) the permit process would take several
4 years and would be futile.

5 **SEC. 3. SETTLEMENT OF CLAIM.**

6 (a) IN GENERAL.—The Secretary of the Treasury
7 shall pay James Doyle, out of money not otherwise appro-
8 priated, a sum of money, in an amount to be determined
9 by the United States Court of Federal Claims, rep-
10 resenting the amount to which James Doyle may be enti-
11 tled in order to make James Doyle whole for any damages
12 and losses sustained by James Doyle by reason of the Fed-
13 eral Government's taking of approximately 2,000 acres of
14 his land located in the St. George area of Utah, now des-
15 ignated as the Red Cliffs Desert Reserve and set aside
16 as habitat for the Mojave desert tortoise, a species listed
17 under the Endangered Species Act of 1973 (16 U.S.C.
18 1531 et seq.).

19 (b) FULL SATISFACTION OF CLAIMS.—The payment
20 made under subsection (a) shall be in full satisfaction of
21 all claims of James Doyle against the United States.

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