

112TH CONGRESS
1ST SESSION

H. R. 2973

To direct the Secretary of the Interior to extend an exemption from certain requirements of the Endangered Species Act of 1973 to protect public health and safety.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 2011

Mr. MATHESON introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To direct the Secretary of the Interior to extend an exemption from certain requirements of the Endangered Species Act of 1973 to protect public health and safety.

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 “Protecting Public Safe-
5 ty and Sacred Sites from the Utah Prairie Dog Act of
6 2011”.

7 **SEC. 2. FINDINGS.**

8 Congress finds that—

1 (1) habitation by the Utah prairie dog within
2 the boundaries of the Parowan City Airport in
3 Parowan, Utah, constitutes a serious threat to
4 human health and safety;

5 (2) the Utah prairie dog burrows beneath the
6 surface of the airport runways, causing sink holes to
7 occur on the Parowan Airport landing strip;

8 (3) airport managers have expressed concern
9 over the possibility of an airplane wheel getting
10 caught in holes caused by Utah prairie dog burrows,
11 at landing or during take-off, which may cause an
12 accident;

13 (4) there is also serious concern that the bur-
14 rows could cause the asphalt on the airport runways
15 to collapse under the weight of stationary airplanes;

16 (5) the Federal Aviation Administration has re-
17 quired a 37.5-foot safety zone to extend on each side
18 of the Parowan Airport runway;

19 (6) airport managers and officials from the
20 Utah Department of Wildlife Resources have deter-
21 mined that Utah prairie dogs create a serious haz-
22 ard by their presence and activities in the safety
23 zone and runway at Parowan Airport;

24 (7) Utah prairie dogs have been burrowing near
25 and interfering with airport runway lighting;

1 (8) the habitation of the Utah prairie dog with-
2 in the boundaries of the cemetery in Paragonah,
3 Utah, constitutes a serious threat to an area of cul-
4 tural sanctity and to public health;

5 (9) the Utah prairie dog burrows under and
6 around gravestones in the cemetery, causing signifi-
7 cant damage to property and heartache to grieving
8 visitors;

9 (10) it has also been discovered that Utah prai-
10 rie dogs have burrowed into coffins of the deceased
11 within the cemetery, disturbing human remains;

12 (11) the disruption of funeral services and the
13 emotional distress of cemetery visitors caused by
14 Utah prairie dogs at the cemetery destroy the sanc-
15 tity of the cemetery;

16 (12) efforts are being made to prevent the Utah
17 prairie dog from gaining access to the Parowan City
18 Airport;

19 (13) a fence has been constructed around the
20 Paragonah cemetery and has failed to prevent Utah
21 prairie dogs from gaining access to the cemetery;
22 and

23 (14) Congress should provide for an exemption
24 to permit takings under the Endangered Species Act
25 of 1973 (16 U.S.C. 1531 et seq.) as a last resort in

1 situations in which the presence of a threatened or
2 endangered species constitutes a grave public health
3 or safety risk or disturbs the sanctity of a burial
4 site.

5 **SEC. 3. DEFINITIONS.**

6 In this Act:

7 (1) PRACTICABLE MEASURES.—The term
8 “practicable measures” means, with respect to the
9 Utah prairie dog—

10 (A) the construction of fences around
11 areas in which there is a public safety concern
12 posed by the presence of the Utah prairie dog;
13 and

14 (B) translocation of Utah prairie dogs
15 using established methods used by—

16 (i) the United States Fish and Wild-
17 life Service; or

18 (ii) the Utah Division of Wildlife Re-
19 sources.

20 (2) SATISFACTION OF THE SECRETARY.—The
21 term “satisfaction of the Secretary” means, with re-
22 spect to a determination made by the Secretary, that
23 the determination is made taking into consideration
24 the expert opinions of biologists and project man-
25 agers of the United States Fish and Wildlife Service

1 typically used in the making of such a determina-
2 tion.

3 **SEC. 4. EXTENSION OF EXEMPTION.**

4 Notwithstanding any other provision of law (includ-
5 ing regulations), the Secretary of the Interior shall amend
6 the special rule of the Secretary contained in section
7 17.40(g) of title 50, Code of Federal Regulations (as in
8 effect on the date of enactment of this Act), as necessary
9 to permit the taking of the Utah prairie dog under the
10 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)
11 to include such a taking in any airport or cemetery in the
12 range of the Utah prairie dog in which, as demonstrated
13 by a State to the satisfaction of the Secretary—

14 (1) the entry or existence of the Utah prairie
15 dog will cause or has caused a threat to public
16 health and safety or to the sanctity of a burial site;
17 and

18 (2) all practicable measures to eliminate that
19 threat have been carried out without success.

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