

1 **COMMISSION RESOLUTION OPPOSING UNILATERAL USE**
2 **OF THE ANTIQUITIES ACT**
3 STATE OF UTAH

5 **LONG TITLE**

6 **General Description:**

7 This resolution expresses strong opposition to the designation of a new national
8 monument in the state.

9 **Highlighted Provisions:**

10 This resolution:

- 11 ▶ expresses strong opposition to the President of the United States establishing a new
12 national monument in the state under the Antiquities Act; and
 - 13 ▶ states that the disparate impact the federal land takeover has on Utah is
14 unconstitutional and violates the equal sovereignty principle.
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16 WHEREAS, the Legislature has a legitimate basis to believe that President Obama is
17 considering issuing a proclamation under the Antiquities Act designating one or more national
18 monuments within the borders of the state of Utah before the end of his term as President of the
19 United States;

20 WHEREAS, the Legislature has a legitimate basis to believe that one of the national
21 monuments being considered may be nearly 1.9 million acres in size;

22 WHEREAS, the state of Utah is already home to the Grand Staircase-Escalante
23 National Monument designated by President Clinton, which placed 1,880,461 acres, or 2,938
24 square miles, of land within the borders of Utah under protected status, greatly restricting its
25 use by local individuals, all without the consent of the Legislature of the state of Utah;

26 WHEREAS, the Grand Staircase-Escalante National Monument is over two times the
27 size of the state of Rhode Island;

28 WHEREAS, an additional national monument designation within the borders of the
29 state will have the effect of further restricting the public's access and enjoyment of lands in

30 Utah without the consent of the Governor or the Legislature;

31 WHEREAS, it is unlikely that our Framers, as evidenced by their inspired and carefully
32 crafted constitutional design to balance power and responsibilities between branches of
33 government and between the national and state governments, ever intended to grant the
34 executive branch unilateral authority to set aside vast swaths of land within the borders of a
35 state without input from Congress or locally elected representatives;

36 WHEREAS, on March 7, 2013, in her confirmation hearing to be Secretary of the
37 Interior, Sally Jewell committed to Senator Mike Lee that gaining local support for a national
38 monument should be a prerequisite for national monument designations under the Antiquities
39 Act;

40 WHEREAS, over the past three years, Secretary Jewell has repeatedly made reference
41 to the importance of local buy-in, including local meetings, input, and public hearings before a
42 national monument designation;

43 WHEREAS, on Wednesday, February 24, 2016, in a House Natural Resources
44 Committee discussion with Secretary Jewell, Chairman Rob Bishop noted that during each of
45 President Obama's previous national monument declarations, at least one member of that state's
46 congressional delegation supported a national monument declaration;

47 WHEREAS, Chairman Bishop went on to note that not one single member of Utah's
48 congressional delegation supports another national monument declaration in Utah under the
49 Antiquities Act;

50 WHEREAS, on February 23, 2016, in her response to Senator Lee in a hearing before
51 the Senate Committee on Energy and Natural Resources, Secretary Jewell remained
52 non-committal regarding working with Utah's Governor, federal delegation, and local elected
53 officials, and stated in reference to concerns about a potential new national monument
54 designation in southeastern Utah: "Well, to be clear, I can't commit to anything with regard to
55 the Antiquities Act because that is a tool of the president of the United States. I will commit
56 that we will go out and spend time within the community and take input from the community.
57 That is something that we have done every time and we will continue to do that.";

58 WHEREAS, as of March 2016, that process of taking input from local communities has
59 not occurred in Utah;

60 WHEREAS, the Legislature of the state of Utah hereby goes on record as not only
61 withholding its consent to the establishment of any proposed new national monuments without
62 state legislative approval, but emphatically objecting to the establishment of the same;

63 WHEREAS, Governor Gary R. Herbert has written to the President of the United States
64 twice -- in August 2015 and in February 2016 -- urging him not to use the Antiquities Act to
65 designate another national monument in Utah;

66 WHEREAS, Governor Herbert noted that another monument designation in Utah
67 would "inflare passion, spur divisiveness, and ensure perpetual opposition";

68 WHEREAS, the system of having federal bureaucrats over a thousand miles away
69 govern land in Utah is contrary to the dual sovereignty design of our federal republic, which
70 protects individual liberty by diffusing sovereign power so that no single sovereign can become
71 tyrannical, controlling all aspects of our lives;

72 WHEREAS, decisions regarding the health, safety, and welfare -- the "police power" --
73 of citizens are, under our federal system, properly placed with local governments more
74 accountable to the citizens, not with unelected, unaccountable federal bureaucrats;

75 WHEREAS, over 66.5% of the land within the sovereign state of Utah is already
76 controlled by the federal government, unlike 38 states in the Union which enjoy dominion over
77 almost all the land within their borders;

78 WHEREAS, the sovereignty of the state of Utah is already negatively impacted by this
79 vast federal control and territory -- larger than the entire state of New York -- within its
80 borders, placing its citizens' rights and liberties at jeopardy;

81 WHEREAS, the use of the Antiquities Act in recent years by presidents to designate
82 millions of acres of land as national monuments disparately impacts western states, including
83 Utah, because only western states have large areas of federal land remaining within their
84 borders;

85 WHEREAS, this disparate impact on Utah and other western states is unconstitutional
86 and violates the equal sovereignty principle and equal footing doctrine;

87 WHEREAS, two western states -- Wyoming and Alaska -- received special exemptions
88 from the Antiquities Act in 1950 and 1980, respectively, after the Act was used extensively
89 within the boundaries of those two states; and

90 WHEREAS, Utah is already the home to seven national monuments and should be
91 considered for an exemption from the Antiquities Act, like Wyoming and Alaska:

92 NOW, THEREFORE, BE IT RESOLVED that the Commission on the Stewardship of
93 Public Lands, the Governor concurring therein, expresses strong opposition to the creation of
94 any new national monuments within the state by the President of the United States without
95 state legislative approval.

96 BE IT FURTHER RESOLVED that the Commission and Governor encourage
97 Congress to amend the Antiquities Act to prevent President Obama and future presidents from
98 unilaterally designating enormous amounts of land within a sovereign state, Utah in particular,
99 as a national monument without state legislative approval.

100 BE IT FURTHER RESOLVED that the Commission and Governor encourage Attorney
101 General Sean Reyes to research the authority of the President of the United States to designate
102 a proposed national monument within the borders of the state of Utah without state legislative
103 approval.

104 BE IT FURTHER RESOLVED that the Commission and the Governor encourage
105 Attorney General Sean Reyes to research and explore all legal options available to the state
106 regarding unilateral national monument designations.

107 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of
108 the United States, the members of Utah's congressional delegation, and Attorney General Sean
109 Reyes.