

**CONCURRENT RESOLUTION ON FEDERAL DESIGNATION  
OF CRITICAL HABITAT FOR GUNNISON SAGEGROUSE**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael E. Noel**

Senate Sponsor: David P. Hinkins

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**LONG TITLE**

**General Description:**

This concurrent resolution of the Legislature and the Governor urges the United States Fish and Wildlife Service to exempt or exclude private properties in San Juan County from designation as critical habitat in the proposed listing of the Gunnison sagegrouse under the Endangered Species Act.

**Highlighted Provisions:**

This resolution:

▶ strongly urges the United States Fish and Wildlife Service to recognize and protect private landowner rights and their ability to make viable economic use of their land by exempting or excluding such private properties in San Juan County from designation as critical habitat in the proposed listing of the Gunnison sagegrouse under the Endangered Species Act.

**Special Clauses:**

None

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*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, the United States Fish and Wildlife Service (USFWS) has announced a proposal to add the Gunnison sagegrouse in the Gunnison Basin of southwest Colorado and southeastern Utah, specifically Grand and San Juan Counties in Utah, to the list of species that



28 are candidates for Endangered Species Act Protection;

29 WHEREAS, following the USFWS's proposal to list the Gunnison sagegrouse as  
30 endangered under the Endangered Species Act, the agency will designate critical habitat for the  
31 species, which contains the physical and biological features essential to the conservation and  
32 recovery of the species;

33 WHEREAS, the USFWS has proposed that 1,704,227 acres be designated as critical  
34 habitat in Utah and Colorado;

35 WHEREAS, in the Monticello area of San Juan County, the USFWS is proposing that  
36 145,500 acres be designated as critical habitat;

37 WHEREAS, of these proposed acres, 95% are private, 4% are Bureau of Land  
38 Management lands, and 1% are state lands;

39 WHEREAS, San Juan County has approximately 5.2 million acres, making it the  
40 largest county in the state of Utah;

41 WHEREAS, the federal government owns, controls, or manages approximately 84% of  
42 the land base within San Juan County, with 2.1 million acres or 41% of that land base being  
43 managed by the Bureau of Land Management;

44 WHEREAS, the Navajo Reservation makes up approximately 1.2 million acres, or 23%  
45 of the county, while the National Park Service controls 587 acres, or 11% of the county, and  
46 the United States Forest Service manages 450,000 acres, or 9%, of San Juan County;

47 WHEREAS, the state of Utah has control over 406,000 acres, or 8%, and the Division  
48 of State Parks manages approximately 3,000 acres, or less than 1%, of the county;

49 WHEREAS, private ownership makes up a fraction of the 5.2 million acres cited above  
50 for a total of 406,000, or just under 8%, of county land ownership;

51 WHEREAS, according to the 2007 Census of Agriculture, San Juan County has 758  
52 farms and ranches covering 1,546,914 acres, including private, state, and federal lands, for an  
53 average farm and ranch size of 2,041 acres;

54 WHEREAS, according to the same census, San Juan County farmers and ranchers  
55 raised and sold \$10,299,000 in crop and livestock commodities;

56 WHEREAS, the proposed area of critical habitat designation has a high potential for oil  
57 and gas development, and private landowners have leased their mineral rights for millions of  
58 dollars;

59 WHEREAS, the result of the proposed listing of the Gunnison sagegrouse and the  
60 accompanying designation of critical habitat will negatively impact approximately 35% of the  
61 private property base in the Monticello area of San Juan County, potentially jeopardizing these  
62 landowners' ability to generate millions of dollars in products and jobs critical to the survival of  
63 the residents of rural San Juan County;

64 WHEREAS, under Section 4 of the Endangered Species Act, the secretary of the United  
65 States Department of the Interior may exclude habitat from designation based on economic  
66 impact;

67 WHEREAS, under the Regulatory Flexibility Act, the USFWS must prepare a regulator  
68 flexibility analysis describing the effects of the proposed rule on small entities, including small  
69 businesses, such as farm and ranch operations, and small government jurisdictions; and

70 WHEREAS, Executive Order 12630, titled Governmental actions and interference with  
71 constitutionally protected private property rights, states that the USFWS must analyze the  
72 potential implications of designating critical habitat in a takings assessment:

73 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the  
74 Governor concurring therein, strongly urges the United States Fish and Wildlife Service to  
75 recognize and protect private landowner rights and their ability to make viable economic use of  
76 their land by exempting or excluding private properties in San Juan County from designation as  
77 critical habitat in the proposed listing of the Gunnison sagegrouse under the Endangered  
78 Species Act.

79 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the San Juan  
80 County Commission, the Grand County Commission, the United States Fish and Wildlife  
81 Service, the San Juan County Chamber of Commerce, the Grand County Chamber of  
82 Commerce, the United States Fish and Wildlife Service, the secretary of the United States  
83 Department of the Interior, the Bureau of Land Management, and the members of Utah's  
84 congressional delegation.

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**Legislative Review Note**  
as of 2-14-13 5:19 PM

**Office of Legislative Research and General Counsel**