

**CONCURRENT RESOLUTION REGARDING THE CREATION
OF NATIONAL MONUMENTS**

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: Michael E. Noel

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor urges Congress to create a process for establishing a national monument that includes public participation and local and state involvement.

Highlighted Provisions:

This resolution:

- ▶ urges Congress to create a process for establishing a national monument that includes public participation and local and state involvement;
- ▶ expresses opposition to the presidential creation of any large area national monument as a violation of the Antiquities Act's smallest-area-compatible mandate;
- ▶ declares that unchecked exercise of power concentrated in the President has serious consequences for Utah, as nearly 60% of the state is federally owned; and
- ▶ urges Congress to check the President's ability to exercise this power by amending the Antiquities Act to clarify its actual intent, which is to establish small discrete monuments or memorials.

Special Clauses:

None

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



28 WHEREAS, the Antiquities Act of 1906, 16 U.S.C. Sec. 431, authorizes the President
29 of the United States to bypass congressional, state, and local land management policies and tie
30 up any federal land in a state through national monument declarations;

31 WHEREAS, the Antiquities Act requires that a national monument be designated
32 within the smallest area compatible with the proper care of federal lands containing historic
33 landmarks, historic and prehistoric structures, or other objects of historic or scientific interest;

34 WHEREAS, in 1996, the President of the United States abused the intent of the
35 Antiquities Act with the creation of the Grand Staircase-Escalante National Monument without
36 any consultation with state and local authorities or citizens;

37 WHEREAS, the size of the Grand Staircase-Escalante National Monument in Garfield
38 and Kane counties far exceeded "the smallest areas compatible" with the feigned objectives of
39 that monument;

40 WHEREAS, the Antiquities Act fails to provide public, local, state, or congressional
41 participation in the act's limited processes compared with the public participation and
42 environmental review aspects of other federal laws, including the Federal Land Policy and
43 Management Act of 1976 (FLPMA) and the National Environmental Policy Act (NEPA);

44 WHEREAS, a confirmed United States Department of Interior internal memorandum
45 declares other areas in Utah "may be good candidates for National Monument designation
46 under the Antiquities Act";

47 WHEREAS, the Tenth Amendment to the United States Constitution states, "The
48 powers not delegated to the United States by the Constitution, nor prohibited by it to the States,
49 are reserved to the States";

50 WHEREAS, lands in the San Rafael Swell and Cedar Mesa areas of Utah are currently
51 managed by the United States Bureau of Land Management (BLM) under the FLPMA;

52 WHEREAS, FLPMA directs the BLM to manage public lands according to Resource
53 Management Plans which "shall be consistent with State and local plans to the maximum
54 extent [the Secretary of Interior] finds consistent with Federal law and the purpose of
55 [FLPMA]";

56 WHEREAS, the state of Utah and the counties of Emery, Wayne, and San Juan have
57 recently completed an expensive and protracted multi-year FLPMA and NEPA process with
58 the BLM and the public to revise and update the BLM's Resource Management Plans in

59 planning areas which include the San Rafael Swell and Cedar Mesa areas;

60 WHEREAS, the revised Resource Management Plans do not call for the creation of
61 national monuments in the San Rafael Swell and Cedar Mesa areas;

62 WHEREAS, creating national monuments in the San Rafael Swell and Cedar Mesa
63 areas would violate and undercut the integrity of the Resource Management Plans revision
64 process in Emery, Wayne, and San Juan counties where the San Rafael Swell and Cedar Mesa
65 areas are situated, and would be inconsistent with the plans and policies of the state of Utah
66 and those counties and their duly elected governmental boards and leaders;

67 WHEREAS, creating national monuments in these areas would violate the
68 constitutional guarantee of a republican form of government as well as federal statutory
69 consistency requirements of FLPMA;

70 WHEREAS, a presidential proclamation declaring national monuments in the San
71 Rafael Swell and Cedar Mesa areas would single-handedly bypass the revised Resource
72 Management Plans and the universal opposition by the duly elected leaders of the state of Utah
73 and the affected counties;

74 WHEREAS, Utah favors protecting the remarkably scenic, recreational, and sensitive
75 areas of the San Rafael Swell and Cedar Mesa areas;

76 WHEREAS, the highest and best use of vast tracts of land in those areas is nonetheless
77 continued grazing and environmentally sensitive energy and mineral development, done in
78 such a way as to protect and preserve the scenic and recreational values;

79 WHEREAS, as history has demonstrated in the case of the Grand Staircase-Escalante
80 National Monument, many thousands of acres of important grazing and mineral and other
81 multiple use resources and values have been closed to reasonable development due to the
82 multi-hundred thousand acre national monument designation;

83 WHEREAS, Congress has considered numerous proposals to abolish or limit the
84 President's authority to establish monuments under the Antiquities Act in recent years; and

85 WHEREAS, Utah's economy, industry, culture, way of life, and its viability as a
86 sovereign state guaranteed a republican form of government depend on reasonable multiple-use
87 access to the BLM lands in the San Rafael Swell and Cedar Mesa areas of the state, most of
88 which would be taken away through national monument designation:

89 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the

90 Governor concurring therein, expresses its support for congress to create a common sense
91 process for the federal government to establish a national monument in any state that includes
92 extensive public participation and local and state involvement.

93 BE IT FURTHER RESOLVED that the Legislature and the Governor express their
94 opposition to the presidential creation of any large area national monument in the state as an
95 abuse and violation of the Antiquities Act's smallest-area-compatible mandate.

96 BE IT FURTHER RESOLVED that the Legislature and the Governor declare that this
97 unchecked exercise of power concentrated in the President portends serious consequences for
98 Utah, as nearly 60% of the state is federally owned.

99 BE IT FURTHER RESOLVED that the Legislature and the Governor urge Congress to
100 check the President's ability to exercise such power by amending the Antiquities Act to clarify
101 its actual intent, which is to establish small discrete monuments or memorials as existed in
102 Utah prior to the unfortunate creation in 1996 of the Grand Staircase-Escalante National
103 Monument.

104 BE IT FURTHER RESOLVED that copies of this resolution be sent to the Majority
105 Leader of the United States Senate, the Speaker of the United States House of Representatives,
106 and the members of Utah's congressional delegation.

Legislative Review Note
as of 2-4-15 1:40 PM

Office of Legislative Research and General Counsel