

1 **CONCURRENT RESOLUTION ON SCOFIELD LAND**
2 **TRANSFER**

3 2011 THIRD SPECIAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Patrick Painter**

6 Senate Sponsor: Margaret Dayton

8 **LONG TITLE**

9 **General Description:**

10 This concurrent resolution of the Legislature and the Governor urges Utah's
11 congressional delegation to sponsor legislation to resolve the Scofield land transfer
12 issue.

13 **Highlighted Provisions:**

14 This resolution:
15 ▶ urges Utah's congressional delegation to sponsor legislation to resolve the Scofield
16 land transfer issue as outlined in this resolution, and to make every effort to see it
17 successfully pass the United States Congress.

18 **Special Clauses:**

19 None

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

22 WHEREAS, the United States, acting through the United States Bureau of Reclamation
23 (BOR) and in cooperation with Price River Water Conservancy District and Carbon Water
24 Conservancy District, acquired lands to accommodate both normal and flood control storage of
25 water;

26 WHEREAS, in 1946, the United States, acting through the BOR, completed
27 construction of the Scofield Dam to provide water for irrigation, municipal, and industrial



28 purposes;

29 WHEREAS, the only features of the Scofield Project are Scofield Dam and Reservoir,
30 which are designed to impound both normal and flood flows;

31 WHEREAS, in order to store flood flows, the dam and reservoir basin are designed
32 with space for storage of water at levels between the normal water surface elevation and the
33 flood surcharge elevation;

34 WHEREAS, to safely accommodate the flood storage, the United States acquired lands,
35 and interests in lands, up to and sufficiently beyond the flood surcharge elevation of the
36 reservoir;

37 WHEREAS, residents have paid Carbon County property taxes for the entire time that
38 they have claimed title to the property and the United States has made Payments In Lieu of
39 Taxes since acquisition of the property and completion of the project;

40 WHEREAS, claimants have constructed private wells and other utilities on the United
41 States property and a special service district was created to construct, operate, and maintain a
42 sewer system within the subdivision;

43 WHEREAS, claimants should have a choice of one of two options to resolve issues of
44 trespass and encroachment;

45 WHEREAS, the first option available to claimants should be: to authorize the Secretary
46 of the Interior to transfer a fee interest in the claimed portion of the property above the
47 elevation of the crest of the existing spillway, if the claimant remits to the United States the
48 current fair market value of the fee interest in the claimed portion of the property, exclusive of
49 the value of any permanent structures; to retain a flood easement by the United States over the
50 entire tract; and to have deed restrictions requiring, among other things, the claimant to secure
51 or tie down any and all structures so as to prevent them from being displaced during any flood
52 event;

53 WHEREAS, the second option to claimants should be to authorize the Secretary of the
54 Interior to grant to a claimant an easement or life estate permitting the continued occupation of
55 the claimed portion of the property above the elevation of the crest of the existing spillway
56 elevation and the continued existence of existing structures, subject to the claimant remitting to
57 the United States the current fair market value of the easement or life estate provisions under
58 which the claimant agrees to hold the United States harmless for any and all claims arising

59 from the design, construction, operation, or replacement of Scofield Dam and Reservoir; and
60 an easement or life estate provisions requiring, among other things, the claimant to secure or tie
61 down any and all structures to prevent them from being displaced during any flood event;

62 WHEREAS, federal revenues generated from the exercise of either option should be
63 retained in a trust fund administered by the United States Secretary of the Interior, acting
64 through the BOR and used for the purpose of providing enhanced recreation opportunities at
65 Scofield Reservoir;

66 WHEREAS, Senator Orrin Hatch is the lead sponsor of the Scofield Land Transfer Act,
67 legislation that is pending introduction before the United States Senate that is designed to
68 resolve the Scofield land transfer issue; and

69 WHEREAS, the efforts of Governor Herbert, Alan Christensen, John Jones, Boyd
70 Bunnell, Sam Chiara, Wayne Pullan, Curt Pledger, Albert Spensko, Mike Milovich, Ed
71 Vidmar, and Ted Wilson have helped to shape this solution to the issue:

72 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the
73 Governor concurring therein, urge Utah's congressional delegation to sponsor legislation that
74 resolves the Scofield land transfer issue as outlined in this resolution, and to make every effort
75 to see it successfully pass the United States Congress.

76 BE IT FURTHER RESOLVED that the Legislature and the Governor express
77 appreciation to Governor Herbert, Alan Christensen, John Jones, Boyd Bunnell, Sam Chiara,
78 Wayne Pullan, Curt Pledger, Albert Spensko, Mike Milovich, Ed Vidmar, and Ted Wilson for
79 their efforts in developing a solution to this issue.

80 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Majority
81 Leader of the United States Senate, the Speaker of the United States House of Representatives,
82 the Carbon County Commission, the United States Bureau of Reclamation, Governor Herbert,
83 Alan Christensen, John Jones, Boyd Bunnell, Sam Chiara, Wayne Pullan, Curt Pledger, Albert
84 Spensko, Mike Milovich, Ed Vidmar, Ted Wilson, and to the members of Utah's congressional
85 delegation.

Legislative Review Note
as of 9-30-11 4:55 PM

Office of Legislative Research and General Counsel