



The rugged beauty of Grand Staircase-Escalante National Monument—a photo essay. Pages 16-17

Keeping A Commitment

The appointment of a special team to help develop the management plan for the Grand Staircase-Escalante National Monument in Utah “is expected to help salve the wounds caused by the surprise creation last September of the newest national monument,” according to the **Salt Lake Tribune**, an influential Utah newspaper.

Utah Governor Mike Leavitt selected the five, whose appointment was jointly announced by Leavitt and **Secretary Babbitt** on March 18. The group includes four residents of Utah: **Ken Sizemore**, director of planning for the Five County Association of Governments, which covers southwestern Utah; **Robert Blackett**, a geologist with the Utah Geological Survey; **Alden Hamblin**, a paleontologist with the Utah Field House of Natural History in Vernal; **Clair Jensen**, manager of Utah state’s Division of Wildlife Resources Advisory Council program; and **Kathleen Truman**, a professor of environmental studies, on leave from the University of Nevada-Las Vegas, who was born and raised in Cedar City, Utah.

When **President Clinton** created the monument in September, he made a commitment that Utah state leaders would be asked to actively participate in planning how the monument would be managed.

“This is precedent setting,” said **Ted Stewart**, director of Utah’s Department of Natural Resources.

“The most important part of this is that these people will be involved in drafting the plan instead of the state and the counties being in the usual position of sitting and watching while the feds write it and then ask us to respond.”

Leavitt said the planning team is “a chance for us to employ a new model for state and federal cooperation and to make this national monument a showcase of environmental management.” Secretary Babbitt also praised the appointments, saying Governor Leavitt’s selections were “an outstanding cadre of professionals. These five people add considerable technical expertise and knowledge.” **Brad Barber**, coordinator for Utah state planning, called the five new members “professionals without a particular point of view.”

The Bureau of Land Management, which will manage the monument, will convene a 15-member planning team for the 1.7 million-acre site. The team’s work will be conducted in Cedar City. The recently appointed members will be joined by BLM, U.S. Forest Service, and other federal experts in recreation, planning, botany, computers, real estate, and archaeology. The team will develop a management plan with an environmental impact statement. The three-year process will provide an opportunity for meaningful involvement to Utah citizens and others with an interest in the monument.

Courthouse Doors Widened for ESA Suits

The U.S. Supreme Court ruled unanimously on March 18 that people whose economic interests are affected by actions taken to protect endangered species may sue under the Endangered Species Act to stop what they view as overregulation.

The decision, written by **Justice Antonin Scalia**, overturned a federal appeals court ruling that said ranchers and two irrigation districts in Oregon did not fall within the zone of interest of the Endangered Species Act and, therefore, could not bring suit under the Act. Property owners affected by decisions made under the Act now can challenge in court under the Act whether those decisions were properly made and necessary to protect a species from extinction.

“The Supreme Court’s Endanger Species Act decision involves some highly technical legal arguments concerning how people go about challenging agency decisions under the Act,” said Interior **Solicitor John Lesly**. “We have always believed that our actions under the Act are and should be subject to court review, whether at the behest of environmentalists or other affected interests. In fact, we are defendants in numerous lawsuits brought under the Act by all sorts of interest groups.”

The court case was brought by landowners who claimed that they were harmed when the

Interior Department directed the U.S. Army Corps of Engineers to reduce water flows from reservoirs of the Klamath Irrigation Project near the Oregon-California border to protect two species of endangered sucker fish. The suit alleges that the reductions violated the Act and that the loss of water caused \$75 million in damages to farmers and cattlemen.

Specifically, the plaintiffs asked the Supreme Court to overturn the lower court ruling that said only people with an interest in preserving endangered species have a right to sue under the Act’s citizen suit provision. U.S. attorneys argued that lawsuits could be brought under the Act only by those seeking more protection for a species. People who suffer economic harm as a result of efforts to protect endangered species do not have standing to sue under the Act but can sue under other federal laws, they said.



More than 950 species of U.S. animals and plants are close to extinction, including the red wolf of the Southeast, top, whose population numbers about 300, and the Wyoming toad, at left, whose population totals about 200. Photos courtesy of the National Geographic Society



“The obvious purpose of the requirement that each agency ‘use the best scientific and commercial data available’ is to ensure that the ESA not be implemented haphazardly, on the basis of speculation or surmise. While this no doubt serves to advance the ESA’s overall goal of species preservation, we think it readily apparent that another objective (if not indeed the primary one) is to avoid needless economic dislocation produced by agency officials zealously but unintelligently pursuing their environmental objective.”

Justice Antonin Scalia

“We sought to uphold the lower court’s decision dismissing this particular lawsuit because we believed the plaintiff water districts had not followed the correct legal path to the courthouse,” Lesly explained. “Although the court’s decision rejected our technical legal arguments, it reaffirmed that the courthouse doors are open to all affected interests to review our implementation of the Act—an outcome with which, broadly speaking, we agree.” Lesly said he did not anticipate that the Court’s decision will have any significant effect on the Department’s administration of the Endangered Species Act.

Some national editorials interpreted the ruling to be an opening of the flood gates and warned that numerous challenges to the Act from adversely affected property owners and opponents of habitat and species protection plans could be expected. Others, however, thought the ruling was a leveling of the legal playing field between environmentalists and property owners that was more likely to bring greater accountability to agency actions without a huge number of lawsuits.