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# ESTABLISHING THE GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT

## OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC LANDS

OF THE

COMMITTEE ON RESOURCES
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

FIRST SESSION

ON

**ESTABLISHMENT OF THE GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT BY PRESIDENT CLINTON ON SEPTEMBER 18, 1996**

APRIL 29, 1997-WASHINGTON, DC

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# ESTABLISHMENT OF THE GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT

**TUESDAY, APRIL 29, 1997**

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC LANDS, COMMITTEE ON RESOURCES,

*Washington, DC.*

The Subcommittee met, pursuant to call, at 9:35 a.m., in room 1324, Longworth House Office Building, Hon. James V. Hansen (Chairman of the Subcommittee) presiding.

**STATEMENT OF HON. JAMES V. HANSEN, A U.S. REPRESENTATIVE FROM UTAH; AND CHAIRMAN, SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC LANDS**

Mr. HANSEN. The committee will come to order. The Subcommittee on National Parks and Public Lands convenes to conduct oversight on establishment of the Grand Staircase-Escalante National Monument by President Clinton on September the 18th, 1996.

I welcome all our witnesses but especially welcome our Governor, Mike Leavitt; Commissioners Louise Liston and Joe Judd; other witnesses from Utah, Mr. Austin and Mr. Till. I also welcome Senator Hatch, Senator Bennett, Congressman Cannon, Congressman Cook; Secretary of the Interior, Bruce Babbitt; and Kathleen McGinty, Director for the Council on Environmental Quality. We welcome our witnesses.

This is a very important hearing for the Utah Delegation, the people of Utah, and for all public lands States. As noted on the agenda, we have listed the numerous bills that call for amendments to the 1906 Antiquities Act.

This Act gives the President incredible authority to instantaneously designate Federal lands as a monument. Today's hearing will demonstrate how this Act can be abused and how this Administration insists on conducting its affairs behind closed doors and without public involvement or concern for the affected people.

As many are aware, the unilateral action by the President created a lot of contention in southern Utah which is already the site of many polarized battles over the use of public lands. I requested Secretary Babbitt and Miss McGinty to join us to answer questions regarding the entire process and the reasons behind the President's actions.

By way of the 1906 Antiquities Law, President Clinton designated 1.7 million acres of southern Utah as a national monument. Standing in another State, surrounded only by celebrities and those privileged enough to be invited, President Clinton locked

up the largest deposit of compliance coal in the United States and took billions of dollars from the school children of Utah.

Moreover, President Clinton has denied the Federal Treasury of billions in revenues from the resources locked up by the monument designation. We will hear the impact this has had on the school children, the people who live in and around the monument, and impacts on the State.

I cannot stress enough what this action has done to the State of Utah. Utah has been the hot bed of contention regarding wilderness, RS 2477 roads, endangered species, water, timber production, draining of Lake Powell, and the list goes on and on. Although we, as a State, are working hard to solve some of these problems, it is clear to me that this Administration is not interested in solution but is only interested in contention and photo opportunities.

Documents—and I stress that—documents we have received make it clear that this new monument had very little to do with preservation of lands but was focused on political advantage, photo opportunities, and stopping a legitimate coal project. In a memo authored by Miss McGinty to senior White House staff, she goes into great length about the political advantages of designation, where the most scenic site would be, and how designation would give the Department of Interior ''leverage'' to stop the proposed coal mine.

These polarized issues are difficult enough to deal with based on facts and opinions, but when politics, scenic backdrops, and leverage drive natural resource management, we are bound to reach the ''train wreck'' that Secretary Babbitt refers to so often.

Secondly, it is not clear that the Administration used any science or data to support this designation. From the documents produced, the experts consulted were Hollywood celebrities, ex-political officials, and elite interest groups. This is hardly the type of science-based management our Federal lands deserve.

In fact, the Administration knew so little about the area and its resources that they had a law professor from the University of Colorado draft the proclamation for the President. It is interesting that there are plenty of staff available for political maneuvering, but we must contract out for the real work.

For anyone who knows this area, the boundaries alone make little or no sense. There are eight oil wells in the monument, private lands, houses, and the boundaries are drawn right next to towns. These are the type of decisions we get when the managers on the ground and the public are excluded from the process.

NEPA and FLPMA were completely ignored in this process, yet the Administration always opposes the most minor waivers contained in legislation. It is troubling that the public process required by NEPA is good for Congress but can be ignored by the Administration when it is politically advantageous.

I want to be clear that I firmly believe there are lands within the Kaiparowits Plateau that deserve protection. I supported the ultimate protection of wilderness designation for nearly 500,000 acres of this area, yet, once again, those on the other side would rather continue the battles as opposed to protecting the lands.

Secretary Babbitt and Miss McGinty, I did not request your presence simply to demagogue this issue, but we have serious questions

that the people of Utah, this committee, and Congress deserve to have answered. I hope you can provide candid answers to our many questions, and I look forward to your testimony and exchange of information. I ask unanimous consent that the documents submitted by the Administration be inserted into the record as provided. Is there objection? Hearing none, so ordered.

[Documents follow:] ???

Mr. HANSEN. I further ask unanimous consent that the Delegation from Utah and the Governor of the State may be allowed to sit on the dais after their testimony. Is there objection? Hearing none, so ordered. I will turn to my friend from American Samoa for his opening statement, the ranking member of the committee.

## STATEMENT OF HON. ENI FALEOMAVAEGA, A DELEGATE IN CONGRESS FROM THE TERRITORY OF AMERICAN SAMOA

Mr. FALEOMAVAEGA. Mr. Chairman, I am pleased that we are having this oversight hearing on the important action taken by President Clinton to designate the Grand Staircase-Escalante National Monument. The designation has engendered strong passions, to say the least.

While there may be disagreements on how the monument was established, I hope we don't lose sight of the fact that this great area contains significant resource values. Governor Leavitt referred to this area as a treasure. The rugged scenic beauty of the unique geology, the wealth of archeological and historical sites combine to form rich in beauty and history.

I know there is a strong temptation to use today's hearing to second-guess President Clinton's decision. I think we should be wise to heed the actions of Governor Leavitt who has worked constructively with the Administration since the monument was established to see that the best possible management plan could be put in place for the monument. I commend the Governor for his efforts.

I look forward to the testimony of the witnesses today on how we can all constructively provide for the management of the monument for the benefit of all Americans especially the good citizens of Utah.

And, Mr. Chairman, I, as an alumni of one of the great universities of the State of Utah, namely, Brigham Young University, I would be remiss if I would not recognize and give a special welcome to the distinguished members of the Utah Congressional Delegation, certainly Senator Hatch, Senator Bennett, Congressman Cannon, and Congressman Cook for their presence here, and especially also to welcome personally Governor Leavitt from the State of Utah.

And, Mr. Chairman, I also would be remiss if I did not give a special recognition to a gentleman that has been a very special guest of our people in my district where just a couple of weeks ago or, to say more specifically, last week, we honored the celebration of the raising of the American flag in American Samoa for our 97th year now. And we were very honored to have Secretary Babbitt join us as our special guest in the territory. I say this more especially because he was there to dedicate our national park.

It is a 9,000 acre national park, unique in the sense that it contains the only tropical rain forest under the umbrella of the administration of the United States.

And given proper recognition that from this tropical rain forest in my district, Mr. Chairman, there are approximately 150 plants that are now being made a serious study for cancer research at the National Institute of Health thanks to the work and the leadership under the gentleman who is a botanist at Brigham Young University, Dr. Paul Cox.

And I want to say that Dr. Cox has been a very avid supporter of not only national parks, but certainly in this tropical rain forest—unique only in that I think Puerto Rico and American Samoa are the only areas that can make this claim under the jurisdiction of the United States.

And I would say that I would like to offer my personal welcome to Secretary Babbitt for his presence here in our hearing this morning. And given the fact that he was privileged to visit one of the most unique coral formations in all the world, and it is in American Samoa. And I hope that in the upcoming worldwide conference on the importance of saving coral reef formations, I am sure that Secretary Babbitt's contribution in this area will be very well received in this world conference.

And, again, I want to welcome Secretary Babbitt and also Miss McGinty who is Chairman of this environmental council that we are going to be hearing from her testimony this morning. Thank you, Mr. Chairman.

Mr. HANSEN. Thank you. We will turn to members of the committee for brief opening remarks they may have. The gentleman from Tennessee, Mr. Duncan.

## STATEMENT OF HON. JOHN DUNCAN, A U.S. REPRESENTATIVE FROM TENNESSEE

Mr. DUNCAN. Mr. Chairman, I have no formal opening statement, but I did read with interest the statement by your Governor that, "The first reports of this that I or any other elected official in the State of Utah had received were from a story in the Washington Post only nine days prior to Mr. Clinton's public proclamation."

And I would simply say it appears that there was an intentional effort made to cover up or hide this major event from the people most affected. And I think that is terrible, and I think it is very undemocratic. And I think sadly I would say that that is something that I think would happen in the former Soviet Union or some Third World dictatorship but surely not in the United States of America. And I think it is a very sad event that occurred in this country. Thank you very much.

Mr. HANSEN. Thank you. The gentleman from New York, Mr. Hinchey.

## STATEMENT OF HON. MAURICE HINCHEY, A U.S. REPRESENTATIVE FROM NEW YORK

Mr. HINCHEY. Thank you very much, Mr. Chairman. I would like to begin by joining you and our ranking member, Mr. Faleomavaega, in welcoming the women and the men of this very

distinguished panel—Senators, Governor, Miss McGinty, Mr. Secretary. We are grateful for your presence here today, and we look forward to hearing from you.

I would like to also, Mr. Chairman, begin my statement by quoting from a letter that I wrote to the people of Utah through the Utah press last year regarding the issue of Utah wilderness and the debate surrounding it in which I have played a role.

It says as follows: "I became involved in the debate over the Utah wilderness and its future because I care about the environment. I care about wilderness, and I care about Utah's strikingly beautiful desert land. I introduced H.R. 1500, originally Wayne Owens's bill, in the hope that it will be seriously considered whenever Congress considers the question of Utah lands, and of the hope that Congress will thoroughly review the issues at stake. I hope the debate will always be conducted in a civil and mutually respectful manner."

The letter went on to say that, "Congressman Jim Hansen's position on the future of those lands is very different from mine. But as Chairman of the Subcommittee on National Parks, Forests, and Lands, Congressman Hansen has always treated me and everyone else in this issue with great respect and allowed me and others who support H.R. 1500 fair opportunity to present our views at the hearings that he conducted on Utah wilderness.

"This issue can best be resolved if we debate the facts and do not let personal attacks interfere with or cloud the issues. In this regard, Congressman Hansen and I are on common ground. We want a debate that honors the land, not one that detracts us from the integrity that wilderness represents." Mr. Chairman, you were gracious enough to thank me for that letter at the time, and I hope that today's hearing will proceed in that same spirit of civility and respect.

Those of us who supported the President's designation of the Grand Staircase-Escalante National Monument last fall know that the designation was controversial. And we know also, of course, that there was opposition. We know too that even some of those people who believe this land should be protected permanently did not like to see the President acting unilaterally to designate it as a monument.

The bills placed before the Subcommittee today reflect that. They aim to restrict the President's power under the Antiquities Act to take such actions. We have seen some pretty strong statements objecting to the President's power under that law. I have collected a few from Utah newspapers.

From a State official quoted in the Deseret News, "Locking up this land is robbing the people of Utah of income from mining and development." An elected official was quoted as charging that the President's action "robs Utah school children of millions of dollars."

The Vice President of the Utah Cattlemen's Association quoted in the Salt Lake City Tribune said, "I don't know whether this action is vindictive or not, but Utah certainly has a role other than being a playground for Easterners." Another representative of Utah's grazing industry added, "This act is going to cause further economic reductions and further depletions of towns. We should

have had hearings prior to doing it in this manner. We just lost some more freedoms."

An elected official called designation "a slap at my State of Utah," and complained, assuming apparently that the Interior Secretary and the President who signed the order acted as one, that the Interior Secretary acted "with no notice whatsoever without hearing any interested group without prior consultation or discussion with the State officials."

"Even a common criminal is entitled to a notice of a hearing," he added, that the action was "dictatorial and arrogant, flaunting of the expressed wishes of the people of Utah." The Tribune editorialized against it calling it "arbitrary, a land grab that should not be allowed to stand."

I am sure these statements sound familiar to all of us who have followed the monument debate. But none of them concern the Grand Staircase-Escalante designation. All of them concerned an earlier "outrage," and that was President Lyndon Johnson's decision to expand Capitol Reef and Arches National Monument back in 1969. Both of them are now national parks, and they are among Utah's most popular tourist attractions and her most prized possessions.

The Town of Moab, the place that was said to be threatened with "economic depletion," has grown and prospered. Ironically, several of the people I just quoted went on to say that the only saving grace in the President's designation—President Johnson's designation—was that Arches and Capitol Reef were monuments, not national parks, and so extractive industries could be allowed there. I understand that today one of our Utah representatives wants to expand Arches National Park. So opinions do change with time.

Most of Utah's national parks, all but one, began as presidentially designated monuments, not as the product of hearings or consultations with State officials. I do not mean that as a criticism of past officials in the State. I say only that it took the imagination and foresight of Presidents acting on their own beginning with those great Republicans, Theodore Roosevelt and William Howard Taft, to see that these lands merited protection, and that their highest and best use was not mineral extraction or development.

Today, I think most Utahans agree that those lands deserve protection and also understand the economic benefits of those designations. Just recently, my colleague, Mr. Cannon, told me that he expected the monument designation would bring millions of new visitors to Utah. Presumably, they will bring some money with them.

Many Utahans whom I know who are contributing to the State were originally attracted to the State by its parks, monuments, and wilderness areas. One of them is here today, Mark Austin, from Boulder, Utah. Boulder is the town whose board voted in 1969 to rename itself "Johnson's Folly" in order to criticize the President's monument designation. They said it would turn the town into a ghost town. Well, of course, that hasn't happened; quite the contrary.

We need to remember today that we are talking about Federal lands, lands that belong to all the American people no matter where they were born, no matter where they live now.

The Antiquities Act invested powers in the President specifically so that he could rise above local interests and temporary concerns to act in the long-term interests of all Americans. Theodore Roosevelt did that with the Grand Canyon; President Taft with Zion; Franklin Roosevelt with Capitol Reef; and Lyndon Johnson with Arches and Capitol Reef again. Most Americans and most Utahans thank them for their actions. I think most Americans thank President Clinton for his actions in this case, and I think that most Utahans either do now or will eventually agree. I thank you very much, Mr. Chairman.

Mr. HANSEN. I would appreciate it if the members on their opening statements should be as brief as possible. We have a panel, and I am sure people are very busy. But thank you for your statement. The gentleman from Colorado, Mr. Hefley.

Mr. HEFLEY. Mr. Chairman, I think we ought to get to the panel, and I will relinquish my time at this point.

Mr. HANSEN. The gentlelady from the Virgin Islands.

Ms. CHRISTIAN-GREEN. Thank you, Mr. Chairman. No opening statement. I would just like to welcome the panel.

Mr. HANSEN. The gentleman from Utah, Mr. Cannon. Most of this—in fact, all of this is in Mr. Cannon's district. We will give you the full five minutes, Mr. Cannon.

## STATEMENT OF HON. CHRIS CANNON, A U.S. REPRESENTATIVE FROM UTAH

Mr. CANNON. Thank you, Mr. Chairman, and members of the Subcommittee on National Parks and Public Lands. I represent Utah's Third District, and the entire Grand Staircase-Escalante National Monument, all 1.7 million acres of it, is in my district.

Last fall, on September 18, under the authority of the 1906 Antiquities Act, President Clinton, with a few quick words and the stroke of a pen, created this incredibly massive national monument. The issue is not really what should happen with this land; the issue is process.

Utahns are angry. If this had been done through an open and thoughtful process, I think Utahans could have embraced something in the area. But that is not what happened. Instead, this monument was created without discussion, without consultation, and apparently without consideration, although I hope we will learn a little bit more about that today. Essentially, the President chose to deliberately circumvent the democratic process.

Over the past decade, the debate over Utah wilderness has been a vigorous one. In the area that is now the new monument, there were strong conflicting opinions over how much land should be set aside and protected as wilderness.

Some suggested as few as 300,000 acres, while others proposed as much as 1.3 million acres. Although it was difficult, the two groups were voicing their opinions in the public forum. The process of reaching a compromise between the two sides was a public one with give-and-take between conflicting viewpoints.

President Clinton entered the debate with a complete disregard for the public political process underway. He took the most dramatic action possible, one beyond the bounds of the public debate,

by setting aside 1.7 million acres, far more than had been talked about publicly.

Today, we have the chance to revisit this action. The key question is why President Clinton, Secretary Babbitt, and Katie McGinty attempted to solve the issues in southern Utah under a cloud of secrecy, behind closed doors. And, more importantly, why those in Utah who would have been affected the most were entirely ignored. I have come today, along with the rest of the Utah Delegation, to get some plain and simple answers.

The first time anyone in Utah, including my Democratic predecessor, ever heard about the possibility of such an action was in the pages of the Washington Post, a mere 11 days before the creation of the monument. During the week before September 18, Utah's congressional delegation and Governor were told repeatedly that "nothing was imminent." Of course, something was.

This monument's designation has brought a great deal of concern to my constituents across the State. As this massive national monument becomes a part of their daily lives, they are confronted with the changes that accompany it in their counties, towns, schools, and individual homes. I have been repeatedly asked by my constituents: "Why was this monument created? How was it done? What was the process? Why were Utahans not consulted with beforehand? And what will it mean to our future?"

I am pleased that we are holding these hearings today. I hope to get some answers to take back to my constituents. I am sure you will agree they deserve it. I thank the Chairman for holding these important hearings and for allowing me and my fellow members of the Utah Delegation to participate.

Let me just say in addition that I am deeply concerned about the tone of these hearings. As a practical matter, in the audience today we have people with very different views about the land in Utah and how it should be used. I thank the Chairman and appreciate Mr. Hinchey's words about the civility that has existed in this committee in the past. And while I expect that we will have some very direct questions, I hope that this hearing can go forward with clarity in answers and civility. Thank you.

Mr. HANSEN. Thank you, Mr. Cannon. The gentleman from Wisconsin.

Mr. KIND. Thank you, Mr. Chairman. I too would like to welcome the distinguished panel here today. And with the hope of getting to them sooner, I will relinquish the remainder of my time as well. Thank you.

Mr. HANSEN. Thank you. The gentleman from California, Mr. Pombo. The gentlelady from Idaho, Mrs. Chenoweth.

Mrs. CHENOWETH. Mr. Chairman, I do have a statement, but in the essence of time, I would like to just submit it for the record. Thank you.

[Statement of Mrs. Chenoweth follows:]

STATEMENT OF HON. HELEN CHENOWETH, A U.S. REPRESENTATIVE FROM IDAHO

Mr. Chairman, thank you for scheduling this hearing on President Clinton's action to establish what has become known as the Utah Monument. I, too, have grave concern about the President's unilateral action. Not only did he clearly violate the procedure of public participation as required by the National Environmental Policy Act (NEPA), but he abused the intent behind the Antiquities Act.

To ensure that this never happens again, I have introduced two bills, Mr. Chairman, and I appreciate your willingness to hear them today. The first, H.R. 596, would prohibit further extension or establishment of any national monument without an express Act of Congress. The second is H.R. 597, the same bill, but only applicable to Idaho. Wyoming and Alaska are already protected by statute from such arrogant actions as occurred in Utah. My intent is to work to stop this from happening to my constituents in Idaho, which is the reason for two versions of my legislative proposal.

Mr. Chairman, I want to briefly outline what exactly it is the President did. With the stroke of his pen, and without any public or local input, President Clinton locked up 1.7 million acres of land in Utah. Not only did he not take public comment as required by NEPA, numerous BLM officials have told me, both publicly and privately, that they were not informed. Imagine, Mr. Chairman, the amount of arrogance it takes for an Administration to lock up so much wealth.

Was the impact to Utah considered? Was the impact to the taxpayers considered? We'll never know, because the President violated the public input procedures required by NEPA. The United States Geological Survey (USGS) tells us that there are approximately 62 billion tons of coal locked up by the designation, including one billion tons owned by the Utah school trust. This represents $1.1 billion to Utah's school children, $2.0 billion to the State of Utah, and $5.0 billion to the U.S. Treasury. All of this was done with a mere stroke of the pen. The problem, however, is that it turned out to be a devastating loss for the Utah school children and the U.S. taxpayer.

Mr. Chairman, this simply can never happen again. We must take steps to remove the ability of one person to take such an arrogant, expensive and economically damaging action. My bills, H.R. 596 and H.R. 597, do just that. I will continue to work with you to ensure that they become law.

Again, Mr. Chairman, thank you for holding this hearing.

Mr. HANSEN. We would ask our colleague from the Second District in Utah to join us, Mr. Cook.

## STATEMENT OF HON. MERRILL COOK, A U.S. REPRESENTATIVE FROM UTAH

Mr. COOK. Well, thank you, Mr. Chairman. And I do appreciate the invitation to be here today, although I am not a member of the House Resources Committee. I think the opinion of the monument in the district that I represent and throughout the State of Utah is varied—and it is wide—from those who believe strongly in it, that are very grateful for it, to those who think it is not a good thing at all for the State.

But regardless of where people are on the issue, I think there is almost unanimous feeling among the citizens of the State of Utah that the method, the process by which the Grand Staircase-Escalante Monument was created was seriously flawed. And it was flawed because the people of Utah, the elected officials were simply not consulted in the process, and that was, I think, an insult to the feelings and went right to the heart of trying to restore trust in the Federal Government on the part of the people of this country and particularly the people of the State of Utah.

For someone who feels as I do, that the monument presents great opportunities, and if it could be a scaled-back version, if the amount of acreage were less than was created by presidential fiat, that it could be a very beneficial thing to the State of Utah. I just can't stress enough the importance of prior consultation.

In that connection, I am co-sponsoring an amendment to the Antiquities Act that would require the President of the United States or the Administration or the Secretary of the Interior to give at least 90 days' notice to the Governor anytime something like this would happen in Utah or any other State.

And I do feel that many of the issues that obviously will be a part of this hearing today and the questions and the real concerns and the answers—a lot of it could have been avoided if we had just followed those steps. So I am very interested.

I am particularly interested in hearing whether there is a chance for scaled-back acreage in the monument. What is going to happen to existing property rights? The President was very clear in his statements in Arizona that they would be protected, and I would like to hear something about the assurance of those protections, and also on the general multiple use issues that affect the areas contained within the 1.7 million acres, and whether or not those multiple use issues could be better satisfied and preserved if we scaled back the acreage in the monument.

Again, I want to thank the Chairman for the opportunity to be here, and I want to commend Representatives Cannon and Hansen for the solid work they have done regarding land issues, and certainly our two Senators, Senator Bennett and Senator Hatch, for the real leadership this entire delegation has shown on this very important issue.

Mr. HANSEN. Thank you, Mr. Cook. Now, I am embarrassed that so many folks are standing there. It has been the custom of this committee, if you so desire, you can take this lower tier. If you would like to sit down, feel free to do so. I recognize the gentleman from Minnesota, Mr. Vento.

**STATEMENT OF HON. BRUCE VENTO, A U.S. REPRESENTATIVE FROM MINNESOTA**

Mr. VENTO. Well, thank you, Mr. Chairman. Southern Utah, the red rock country, the Escalante National Monument—this area has been the focus of study and recommendations for 60–70 years, going back to the 1930's and then Secretary of Interior Ickes, and recommendations to make the entire area a conservation designation or a park. And to suggest that it hasn't been considered or studied, I think, obviously, is at odds with some of the analysis and recommendations.

I understand that the land use process in Utah has polarized, in my judgment, for a lot of reasons. I think we were on the right path when we did some work on Forest Service wilderness and made some modifications. And I think it started with the BLM wilderness study and the disagreements that occurred over what was appropriate for study at that time.

And so I think that if we want to take the action by itself last year and look at it unconnected to the threat of consideration that had existed, we would have to realize we missed an opportunity with then Governor Scott Matheson in his discussions about the ability to try and consolidate Federal landownership and to eliminate some of the problems, as you know, within Utah and perhaps without. There was a resistance to, in fact, move in that direction. I was there and we did hearings with other members on topics of that nature, but things had become polarized.

And I had hoped that this year after the President took the action precipitated by his concern that we were not able to move, and we can point fingers at one another—we all observed the problems we had in the House last year and the problems that our two

friends or colleagues in the Senate had with moving a Utah wilderness bill.

So I think we have to go back and look at that. I hope that this hearing will be the beginning of setting a new tenor with regards to working out that BLM wilderness bill and addressing the monument and the concerns the President had in terms of this designation.

We have worked out literally hundreds of bills in the years that I have served on this committee which were very contentious. I know the monument designations from time to time have been used for other purposes. I think this by any definition has the characteristics. I don't think the answer lies in stripping the President of this extraordinary power. I think usually it has been used very prudently.

But I think we do have the opportunity to come back and work with this President on dealing with this monument and dealing with a policy path for the land use of the BLM wilderness and other areas in Utah. And I hope that this hearing will rather than accentuate that polarization and continue with it, we will be able to come to find some common ground today with the principals.

I certainly welcome our Senators, Senator Bennett and Senator Hatch, my classmates, and the Governor, and, of course, Secretary Babbitt, and Chairwoman McGinty. Thank you, Mr. Chairman.

Mr. HANSEN. Thank you. The gentleman from North Carolina, Mr. Jones.

Mr. WALTER JONES. Mr. Chairman, I will relinquish my time.

Mr. HANSEN. Thank you. The gentleman from Montana, Mr. Hill.

Mr. HILL. Likewise, Mr. Chairman, I would like to get on with the hearing.

Mr. HANSEN. The gentleman from Nevada. Thank you. Well, thank you so much for your opening statements. We are very grateful for the panel that is here. We will start with Senator Orrin Hatch and then go to Senator Bennett and Governor Leavitt, Kathleen McGinty, and Secretary Babbitt. Senator Hatch.

## STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM THE STATE OF UTAH

Senator HATCH. Thank you, Mr. Chairman. I am pleased to be here with all of you here at the dais—at the table here, especially my colleagues, Governor Leavitt and Senator Bennett—on a matter of great concern to the people of Utah and of growing interest to the people of the United States.

This, of course, involves the unilateral creation of the Grand Staircase-Escalante National Monument by the President by means of a process in which the elected representatives of Utah were not consulted and, thus, played no role in the decision. Consequently, the people of Utah had no say in the matter, even though the Escalante region is of great scenic, archeological, cultural, and economic interest to the State of Utah.

On September 18, 1996, President Clinton invoked the Antiquities Act of 1906 to create the Grand Staircase-Escalante National Monument. The 1.7 million acre monument, larger in size than the States of Rhode Island and Delaware combined, locks up more than

200,000 acres of State lands, along with the vast energy reserves located beneath the surface.

What was particularly and still is particularly galling to me, Mr. Chairman, is the fact that both Secretary Babbitt and CEQ Director McGinty assured myself and Senator Bennett in a meeting just a week prior to the President's announcement that the leaks concerning a designation of a monument in Utah were not true, and that no such action was contemplated. If it were, we were told, the Utah Delegation would be fully apprised and consulted.

But as we all know, this promise was not kept. The biggest presidential land set-aside in almost 20 years was a sneak attack on the State of Utah—as I have said before—the mother of all land grabs. Without any notification, let alone consultation or negotiation with our Governor or State officials in Utah, the President set aside this acreage as a national monument by the stroke of his pen.

Let me emphasize this point. There was no consultation, no hearings, no town meetings, no TV or radio discussion shows, no nothing. No input from Federal managers who work in Utah and manage our public lands. And as I stated last September, in all my 20 years in the U.S. Senate, I have never seen a clearer example of the arrogance of Federal power than the proclamation creating this monument.

This President has a propensity to bypass Congress and the States and rule by executive order; in other words, by fiat. Although acting pursuant to the authority designated him by the Antiquities Act, President Clinton, by not consulting Utah's elected Federal or State representatives, ignored our tradition of due process of law.

Due process of law, originally termed law of the land, derives from Chapter 39 of the Magna Carta of 1217. This provision was intended to ensure that only those convicted for a known statute could be punished, not punished at the mere will or whim of the king. This principle was codified and extended to require hearings for deprivations of rights by the Fifth and Fourteenth Amendments to the Constitution.

The purpose of due process, therefore, was to prevent arbitrary executive behavior. It was also designed in no small part to guarantee that only the legislature could pass a law, that there would be government by consent. By not consulting with the representatives of the people of Utah or with Congress, President Clinton's proclamation is akin to a royal edict.

Now, I am not necessarily contending that the proclamation was totally unlawful, after all, it was promulgated pursuant to the power delegated to the President by Congress. But I am saying that consultation with interested parties would have made the national monument designation more efficacious and perhaps avoided the legal and other pitfalls that may yet arise from this designation.

If there was proper and sober consultation, the Administration would have learned that Utahans and their representatives have two chief concerns with the President's proclamation in addition to the manner in which it was made: first, there were 200,000 acres of school trust lands, set aside for the benefit of Utah's school children, captured within the monument boundary; and, second, the

President has locked up more than an estimated 11 billion tons of recoverable, low-sulfur, clean-burning, environmentally sound coal.

Indeed, the monument designation will basically withdraw from future development the largest untapped energy resource in the United States, or reserve in the United States, the Kaiparowits Coal Basin. This reserve has been valued at over $1 trillion, comparable to 20 to 30 billion barrels of OPEC oil. Designating this area as part of the monument will deprive the Treasury and thus the American taxpayers of approximately 6 to $9 billion in lost Federal royalty tax revenues.

Under the monument designation, this resource will not be available for our posterity. It is beyond question that the use of this environment-friendly coal could have had beneficial impact on our air pollution problems in this county. Yet, no interested parties or outside experts were consulted before the proclamation was made. Where is the rule of law here? Where is government by consent?

With regard to the school trust lands, it is important to remember that at the time Utah became a State, certain lands were deeded to the State of Utah by the Federal Government to be held in trust specifically for the education of our Utah school children. The inability to access the natural resources contained on these lands will have a devastating impact on our State's ability to provide crucial funds for Utah's public school educational system.

The Utah Congress of Parents and Teachers has indicated that "the income from the mineral resources within the monument could have made a significant difference in the funding of Utah schools now and for many generations to come." It remains to be seen the manner in which the President will fulfill the promises he made to the children of Utah last September when he created the new monument.

Specifically, he said, "Creating this national monument should not and will not come at the expense of Utah's children." He also added that it is his desire to "both protect the natural heritage of Utah's children and ensure them a quality educational heritage."

However, Lee Allison, Director of the Utah Geological Survey, recently testified that, "It is questionable whether the Federal Government has sufficient coal and other resources in Utah comparable to the school trust's coal in the Kaiparowits coal field, let alone the trust's other energy and mineral resources within the monument."

This is not encouraging. Everyone wants to know how the Administration expects to compensate Utah's school children for the lost revenues contained on the trust lands within the monument. And I am very hopeful that we will learn about the Administration's plans in that regard today.

Remember, our wilderness bill considered last year proposed designation of approximately one-quarter of the monument-designated land as wilderness. This wilderness designation would have given greater environmental protection to the scenic Escalante region. Monument status, on the other hand, allows buildings of roads, tourist centers, rest rooms, and eateries.

This is the great irony: the stated purpose of the President's proclamation was increased environmental protection. Yet, our wilderness bill would have provided much greater protection to the

most scenic and historic areas of the Escalante region. But we were not consulted; we were not asked; nor was our opinion sought. Rather, in an effort to score political points with a powerful interest group 48 days before a national election, President Clinton unilaterally acted.

In taking this action in this way, the President did it backwards. Instead of knowing how the decision would be carried out and knowing the ramifications of its implementation and the best ways to accommodate them, the President has designated the monument and now expects over the next three years to make the designation work. The formal designation should have come after the discussion period. It is how we normally do things in our country.

Unfortunately, however, the decision is now fait accompli, and we will have to deal with it as best we can. I hope the President will be there to help our people in rural Utah and our school system as the implementation of the designation order takes place.

When an area the size of the Grand Staircase-Escalante National Monument is withdrawn from public use and given the special designation, there are many ramifications, both economically and socially, that need to be addressed, the burden of which falls primarily on the shoulders of the local community.

These include amending county land-use plans to be consistent with the new monument; improving the infrastructure so as to prepare the existing inadequate transportation system for the massive inflow of new visitors to the area; and improving services provided by local government, such as law enforcement, emergency, search-and-rescue, solid waste collection, and disposition of water and other natural resources, in anticipation of greater visitation to the area.

These are just a few of the items that are currently being discussed and reviewed by local leaders in the area of the new national monument. These are not trivial matters; they are critical to continuing the livelihood of the cities and towns in the area. So no one should think that creating a new monument of this size, as endearing a concept as that is, does not create significant problems that must be addressed.

Now, I could go on but let me just say this. As you know, Mr. Chairman, I filed a bill that would give the President—would allow him to retain his unfettered authority under the Antiquities Act over monument designations of 5,000 acres or less. The 5,000 acre limitation will give effect to the "smallest area compatible" clause, contained within the current Antiquities Act, which both the Courts and the past Presidents have often ignored. And I could go on on that. I will ask that the rest of my remarks in that regard be placed in the record.

Mr. Chairman, today we will lay the groundwork for reform. Secretary Babbitt and CEQ Director McGinty will answer questions concerning the monument designation. And I look forward to finding out the true reasons why the designation was made and why it was made in such a secretive fashion.

I also want to ensure that a fair and thorough process is followed on any future large-scale monument designations under the authority granted in the Antiquities Act. Since Utah is home to many other areas of significant beauty and grandeur, I am concerned

that this President or others within his Administration, or a future President or Administration, might consider using this authority in the same manner as last September. In other words, it would be deja vu all over again.

And we cannot afford to have the entire land area of our State subject to the whims of any President. Many have proposed plans, including myself, for these areas, that have been the subject of considerable public scrutiny and comment. The consensus building process must be allowed to continue without the threat that a presidential pen will intervene to destroy the progress and goodwill that has been established or that may be underway among the citizens of our State.

In short, we must ensure due process of law and government by consent. So I am very grateful for you and the other members of this committee in holding these hearings, and I have appreciated the comments that have been made here today. And we will look forward to getting to the bottom of this and seeing what can be done to resolve some of the tremendous conflicts and problems that exist as a result of this unilateral declaration. Thank you, Mr. Chairman.

[Remainder of statement of Senator Hatch follows:]

REMAINDER OF SEN. HATCH'S STATEMENT

The lack of consultation and all the problems this matter has brought about has led to the introduction of several legislative proposals in the 105th Congress to amend the Antiquities Act, including my own bill, S. 477, the National Monument Fairness Act. This bill is designed to correct the problems highlighted by the Clinton Antiquities Act proclamation in Utah in two significant ways.

First, under the Act, the President would retain his almost unfettered authority under the Antiquities Act over monument designations 5,000 acres or less. The 5,000 acre limitation will give effect to the "smallest area compatible" clause, contained within the Antiquities Act, which both the courts and past Presidents have often ignored.

For areas larger than 5,000 acres, the President must consult with the Governor of the state or states affected by the proposed proclamation. This consultation will prevent executive agencies from rolling over local concerns—local concerns that, under the dictates of modern land policy laws such as the Federal Land Policy and Management Act of 1976 (FLPMA) and the National Environmental Policy Act, certainly deserve to be aired.

Second, the National Monument Fairness Act allows all citizens of the United States to voice their concerns on large designations through Congress. The Act provides that Congress must pass into law a proposed designation over 5,000 acres and send it to the President for signature before the proposal becomes final and effective. Thus, the nation, through its elected representatives, will make the decision whether certain lands will become national monuments. This is the way our democracy ought to operate. Indeed, it furthers the intent of the Framers in the Constitution who anticipated that laws and actions affecting one or more individual states would be placed before the legislature and debated, with a state's representatives and senators able to defend the interests of their state.

Would the citizens of other states balk at a presidential order declaring such an enormous portion of their own states out of circulation without even the opportunity to register their views on the subject? I daresay they would.

Enactment of this bill will restore the rule of law and government by consent. It would reform the Antiquities Act, which is itself antiquated and subject to abuse.

But today, we will lay the ground work for such reform. Secretary Babbitt and CEQ Director McGinty will answer questions concerning the monument designation. I look forward to finding out the true reasons why the designation was made and why it was made in such a secretive fashion.

I also want to ensure that a fair and thorough process is followed on any future large-scale monument designations under the authority granted in the Antiquities Act. Since Utah is home to many other areas of significant beauty and grandeur, I am concerned that this President or those within his Administration, or a future

president or Administration, might consider using this authority in the same manner as last September. In other words, it will be "deja vu all over again."

We cannot afford to have the entire land area of our state subject to the whims of any president. Many have proposed plans, including myself, for these areas, that have been the subject of considerable public scrutiny and comment. The consensus building process must be allowed to continue without the threat that a presidential pen will intervene to destroy the progress and goodwill that has been established or that may be underway among the citizens of our state. In short, we must ensure due process of law and government by consent.

Thank you.

Mr. HANSEN. Thank you, Senator Hatch. Senator Bennett.

**STATEMENT OF HON. ROBERT F. BENNETT, A U.S. SENATOR FROM THE STATE OF UTAH**

Senator BENNETT. Thank you, Mr. Chairman. I appreciate the opportunity to be here and join with my colleague, Senator Hatch, and always delighted to be with the Governor. I am glad that Secretary Babbitt and Chairman McGinty are with us so that we can maybe begin to have a kind of dialog on this issue that I think we should have had prior to the designation of the monument.

I won't go through the entire chronology—it is familiar to most—about how we first heard about this in the Washington Post on the 7th of September. On the 11th of September, I called Bruce Babbitt and said, "Bruce, what is going on?"

And I must say that the Secretary was as forthcoming as I think he was able to be under the circumstances that he was in the Administration, and I have always appreciated his willingness to be candid with me.

He told me on that occasion that the ultimate decision was not in his hands, that this was something that was being handled at the White House. We had subsequent meetings, and they have been referred to here. I won't reiterate those.

But I do remember meeting on the Monday in which the announcement was made in the Senate in our offices in which White House representatives told us that this was an Interior Department decision. And I said, "Well, the Interior Department says the White House is in charge. The White House is saying the Interior Department is in charge. I wish somebody would step forward and admit to being in charge."

On that occasion, we asked for maps to know what was being considered. We were told, "No maps are available because no decision has been made. Once the decision has been made, then we will be able to give you a map." That was on Monday. On Wednesday, I read an editorial in the New York Times praising the creation of this monument covered complete with a map. They had maps available for newspaper reporters but not maps available for Members of Congress.

Well, I received a phone call on that day, the 18th of September, from Leon Panetta. And he outlined for me what the President would be saying at the Grand Canyon that afternoon. I was not at all surprised to get that phone call, even though we had had all of the assurances that no decision had been made and that we would be consulted.

As he went through the various points of the President's statement, Mr. Panetta summarized that those who held valid mineral leases in the area of the monument would receive appropriate com-

pensation in the form of swaps; that is, land of equal value would be swapped with the land that they had in the monument.

I said to Mr. Panetta regarding the coal, "There is no equivalent land outside of the monument," to which he replied, "I am beginning to find that out." I find that a very compelling kind of statement. Here is the Chief of Staff of the White House who on the day of the announcement is just beginning to find out the value of the resource that is being dealt with here. Well, we talked back and forth, and he concluded that conversation with this statement, as best as I can recall it. He said, "Well, Senator, at least we have three years in which to pick up the pieces."

After that announcement and comment by Leon Panetta, I have engaged in an effort to find out exactly what did happen in the process of creating this monument. Miss McGinty and I have had some exchanges in the hearing process, as she has come before various committees with the Senate defending her appropriation, and I have asked her repeatedly to give me information about how this was done and names of people who were involved.

She assured me absolutely she would do that, but nothing was forthcoming. So I wrote her a letter. Her staff responded to that letter and said, "This was an oversight, and we will send you everything relating to the monument," after which I received a very slim package with a very few documents, none of which, with one possible exception, in my opinion, was responsive to my request.

And so I repeated the request while she was before the Senate Appropriations Committee seeking approval for her budget. In response to that, she contacted the Salt Lake Tribune and notified them that I had received everything I had asked for. She even put that notification in writing saying that Senator Bennett had been given everything he had asked for and everything he needed.

We made it clear that we did not consider that I had received everything I had asked for, and perhaps in response to that continued pressure from my office, we then received the following box. This is in addition to everything I had asked for according to her statements to the Salt Lake Tribune.

My staff has sacrificed their weekend getting ready for this hearing and has gone through these documents. They tell me that this constitutes about 20 or 30 percent of what I had asked for, but it is a good start. And I would like, Mr. Chairman, to get into these documents for a few quick references.

In these documents, we have found, among other things, the following—I will not take the time to go through every page that is yellow-tabbed. My staff considered every yellow tab to be something of a smoking gun, but I will just talk about a few of them.

We found a letter from the Solicitor of the Interior Department, Mr. Leshy, to Charles Wilkins. He is a professor in Colorado who actually drafted the proclamation. In that letter Mr. Leshy says, "I can't emphasize confidentiality too much. If word leaks out, it probably won't happen so take care."

A memo from Miss McGinty to Marcia Hales at the White House, "Leon Panetta asked that I prepare talking"—first, let me give you the dates. The date of the first one from Mr. Leshy is the 26th of July. On the 5th of August, Miss McGinty sends a memo to the White House in which she mentions the following: "Roy Romer,

Governor Miller, Mike Sullivan, former Governor Schwinden, Senators Reid and Bryan, and Representative Richardson to test the waters." No mention of anyone in Utah. And this comment, "Any public release of the information will probably foreclose the President's option to proceed."

On the 26th of August, an e-mail from Mr. Brian Johnson to Mr. Tom Jenson, lower level officials but important officials involved in this. Mr. Jenson apparently asks why a Mr. Kenworthy had called. Brian Johnson replies he was just checking around. "No idea where the Sierra Club thing came from, but we can ask Katie"—the indication that while no one from Utah was being consulted, people from the Sierra Club were in on this conversation. I could go on and perhaps will during the questioning period. I have a number of examples of that kind.

Let me summarize my concern here. This is as serious a decision as we have made respecting public lands in this country. It was done entirely in secret with deliberate attempt to keep it secret right from the beginning. The issues that should have been raised in any kind of public exposure of this conversation have been swept aside, and, in the words of Mr. Panetta, "We have three years in which to pick up the pieces," after the fact.

Issue number 1, from my point of view: we can't have it both ways with respect to the economic impact of this land. Either it is going to produce millions and millions of tourist dollars, thereby making sure the land will not be wilderness because millions of tourists and wilderness are not compatible, or the promises of the economic benefit from those tourists will not be met.

We must have an open discussion in this three-year period of exactly how many tourists we really want in this land. If it is as magnificent as the President indicated and should be preserved and kept in pristine fashion, we don't want any tourists there. As I said in my conversation with Secretary Babbitt, national monuments means paved roads, visitor centers, money for law enforcement, all kinds of things that are not necessarily—indeed, that are inimical to the wilderness proposal.

Next, of course, is the school lands issue. Senator Hatch has already addressed that. The clear question is how is the President going to keep his promise that Utah's school children will be made whole. Are we going to have direct appropriations in Congress to compensate Utah school children? We don't know. Those are some of the pieces we have to pick up in this three-year period to which Chief of Staff Panetta referred.

Finally, of course, there is the issue of minerals on this land. We have already talked about the coal and the fact that there are no comparable lands to swap. But since the designation has been made, we have discovered that there is possibly oil in this area. Conoco has been given clearance to go ahead and drill a test well inside the monument on the piece of land owned by the State of Utah School Trust, not Federal land.

What happens if Conoco hits in the deep well they are going to drill and we find that there is oil of worth comparable to the coal in this land? And how do we deal with that as we go through the three-year period in which we pick up the pieces?

Those who draft legislation in secret, those who draft proclamations without an open process run the risk of being surprised when new information becomes available to them, and that is what has happened in this circumstance.

My concern is that as we go through the three years in which to pick up the pieces, we now do so in an atmosphere of enormous distrust created by the process through which this monument was made. A more open process at the front end would allow us to have greater trust, negotiation, and solution on the back end. But the atmosphere of distrust has been created. It is all pervasive, and it is not getting any better.

I sat there on my birthday, the 18th of September, and heard the President of the United States use my name on national television—every politician's dream of having the President identify him on national television. The President promised that I would be appointed to some kind of body or commission to discuss and ultimately resolve the issue of Utah's school lands.

That has been well over six months ago—over half a year. We have only three years in which to pick up the pieces. One-half of those three years is now long gone. I am still waiting for my phone to ring. I am still waiting for somebody to call me and say, "That commission to which the President appointed you by name on national television is going to meet next Tuesday. Can you please come?"

In this atmosphere of distrust, spawned by the method in which this monument was created, I have great concern that that commission will not come to pass, that the issue of swapping out the school lands will not be addressed, and that once again the school children of Utah will be shortchanged.

One final note on history. We have been told that the President's action is in the historic pattern of past Presidents, going all the way back to Theodore Roosevelt. We have checked Theodore Roosevelt's designation of the Grand Canyon as a national monument. And we have found that prior to making that designation, Theodore Roosevelt had full and open consultation with the governors of every State involved, that it came at the end of a consultation process and not at the beginning.

Theodore Roosevelt's White House did not have boxes of documents that they were hiding that had to be pried loose from them after the fact in order to find out what he had on his mind. Had this monument been created in the same process and the same way that Theodore Roosevelt created the Grand Canyon, I would be sitting here today applauding it and saying that it will be wonderful for our children and future generations.

As I sit here waiting for my phone to ring for the President to fulfill his promises, I am filled with great concern that the three years in which we have to pick up the pieces is rapidly slipping away from us, and the pieces are still scattered all over the landscape. Thank you, Mr. Chairman.

[Statement of Senator Bennett follows:]

STATEMENT OF HON. ROBERT F. BENNETT, A U.S. SENATOR FROM UTAH

Mr. Chairman, I am pleased to participate in today's hearing to discuss the process by which the Grand Staircase-Escalante National Monument came into being. I look forward to your questions on this important event.

On September 7, 1996, the world was informed that the President was considering creating a national monument in the State of Utah that was somewhere around two million acres in size. This came as unexpected news to members of the Utah delegation. When we began to ask questions, we were told "Oh no, nothing is really under consideration. These are just discussions taking place in the White House and they probably should not have been leaked. There shouldn't be any speculation, because nothing is really going to happen."

But rumors persisted. After a meeting held with our staff and Katie McGinty on September 11, the Administration's intent became even more clouded. That night, I called Secretary Babbitt myself. Again, I was assured that nothing was going to happen, that he knew very little and he would certainly let me know if some thing was to happen. Just to be safe, after our conversation, I drafted a letter to him asking three important questions about the Administration's positions on mineral leases, water and the school trust lands. The response was less than satisfactory, it essentially stated: "I look forward to discussing these issues with you further."

During that week, some speculated this was just the Administration getting back at the Republicans in Congress. One problem with that speculation: The Democratic Congressman who represented the Third Congressional District where the monument was located was uttering the same concerns. He expressed amazement that he had not been consulted and came away from his meeting with the Secretary saying "I have been assured that there is nothing imminent going to happen." Unfortunately for Congressman Orton, this event had been planned well in advance, despite the assurances he had received.

On Saturday, September 14th, Senator Hatch and I were summoned to Secretary Babbitt's office for a meeting to "calm our fears" and to lay out a full statement of what was going on. Imagine my surprise when Secretary Babbitt began the presentation by saying, "We're here just to listen to your concerns." We thought we were there to learn about the proposal. At that meeting, Senator Hatch and I registered our deepest concerns that an action as significant as this would be taken without consultation with Congress, let alone members of the Utah delegation.

Congress as a whole, having historically played a significant role in the creation of National Monuments was being entirely cut out of the process. At that meeting, Secretary Babbitt told us "I can tell you categorically, no decision has been made with respect to this proposal." When confronted by the press, again, he reiterated: "No decision has been made."

I went away from that meeting convinced that in spite of the assurances that had been made to us that no decision had been made, in fact, we were on track toward a certainty of an announcement. Of course, this came just four days later.

Now, the documents finally provided to us almost six months after the fact, prove that numerous individuals, ranging from members of environmental groups to members of the media, and elected officials from the Democratic party outside of Utah were all privy to information regarding the establishment of the monument far in advance to any notification of the Utah delegation—despite the personal assurances of both Ms. McGinty and Mr. Babbitt to the contrary, that no decision had been made. There appears now an intent to deceive the people of Utah and this should disturb the members of this Committee.

On Wednesday, September 18th, I received a phone call from Leon Panetta. I was not surprised when he told me that the President would announce the creation of a new national monument. This was not necessarily news, because the rest of the world was tipped off on Monday when CNN announced that the President would travel to the Grand Canyon to make "a major environmental announcement."

That morning, both the New York Times and the Washington Post published editorials in favor of the new monument. The Times editorial was entitled "A New and Needed National Monument." The fact that this appeared in the New York Times the day the President made his announcement illustrates that almost everyone with close ties to the Administration was informed of this far in advance of our official notification by the White House.

In my conversation with Leon Panetta, it was revealed to me that the issue that impacted the State of Utah the most—School Trust Lands—was merely an afterthought to this administration. I informed Mr. Panetta that he would be hard pressed to find anywhere in the State of Utah, or in the nation for that matter, an energy reserve large enough to make the school kids of Utah whole again. His reply to me "I am beginning to find that out."

And that afternoon, the President made a lovely speech on the Rim of the Grand Canyon. He signed a Presidential Proclamation creating a 1.7 million-acre National Monument in Utah. One hour later, he was back on Air Force One, off to another campaign event.

Unfortunately, Utahns were left to pick up the pieces. We were given a vague promise of an unprecedented three-year planning process, which would solve all of the problems that arise with the monument's creation. "Trust me," he said. But after receiving additional documentation, Mr. Chairman, given the history leading up to the announcement, it is fairly difficult for many people in Utah, to trust the administration on this one.

Throughout this whole process, the Administration adopted a "Trust Me" attitude. The Administration took the approach of "We are going to turn the process completely around. Instead of going through the development of the Monument proposal and then creating the monument, we will create the monument and then develop the plan after the fact.... but trust us."

"We will take care of all your concerns." We were told. But when it came to even trying to learn the names of those involved in the process and the development of the monument, to have further discussions with those individuals, our requests for information were refused.

Ms. McGinty and I participated in a rather pointed exchange on September 26, where she promised to provide a list of those participants in the process as well as full documentation of the decision making process. She claims she did provide that information. The Record shows clearly now, that she did not.

And this is why we find ourselves here today. Were it not for the reluctance of this administration to provide us information early on, to bring us into the decision making process, we would have had answers to our questions.

Now, after several requests, information has finally been provided. It is my expectation that today's hearing, members of this committee will see how distorted this unfortunate process had become. The fact that we are here today is a testament to how the public process should work. Unfortunately, it is a luxury that the people of Utah were never afforded by this Administration. I thank the Committee for this opportunity to participate in the public process and I welcome your questions.

Mr. HANSEN. Thank you, Senator Bennett, and I assume your phone will ring this afternoon, however. We are always honored to have Governor Leavitt with us. Governor Leavitt, we will turn to you, sir.

## STATEMENT OF GOVERNOR MICHAEL O. LEAVITT OF THE STATE OF UTAH

Governor LEAVITT. Thank you, Mr. Chairman, and to my esteemed colleagues, I express appreciation of the opportunity to be here to represent the people of our State. And my formal remarks, I will detail the events as they unfolded with respect to my office. I will make a short version of those and will make some comments at the end with respect to my feelings about the needs for the Antiquities Act to be amended in significant ways.

We in Utah have worked hard to build relationships and to forge partnerships and to lay groundwork for interagency cooperation unmatched by other public land States. For these reasons, the chain of events that surrounded the establishment of the Grand Staircase-Escalante National Monument have caused me and others in Utah great concern and have created a greater distrust, regrettably, of the governmental process by many of the people who live in the State of Utah.

On September 18, when the President invoked the provision of the 1906 Antiquities Act to designate 1.7 million acres of southern Utah as the Grand Staircase-Escalante National Monument, the first reports of which I heard, as been referred to earlier, was an article in the Washington Post some nine days earlier.

The following day, on Monday, September the 9th, I called the Secretary and had a conversation where he told me that he was currently not involved in the discussions and that I should call the White House. When I called the White House, I spoke with Marcia

Hales, who is the Director of Intergovernmental Affairs. She told me that she too had seen the story and that she was not certain where it had come from, but she would get back to me to tell me how serious a proposal it was.

On Wednesday, September the 11th, a few days later, Ms. Hales called to report to me that while there had been a discussion, no decision had been made. I asked, "What is the timing on this matter?" She said, "Well, that is what the decision is." I said, "That doesn't sound to me like a decision that hasn't been made. It sounds to me a decision has been made, and you are just trying to decide when you should announce it."

"Well," she said, "I think we are a little ahead of ourself on that piece," but I said, "It seems very clear to me that I need to speak with the President on this matter, or if he is unavailable, I would like to speak with Mr. Panetta." Later that week, an appointment was confirmed with Mr. Panetta for the following Tuesday.

On Friday, September the 13th, my office became aware through the news media that there was an important environmental announcement planned for the Grand Canyon the following week. Preparations were already being made by environmental groups for transportation to the Grand Canyon for the announcement. Local governments in Utah were becoming more and more concerned.

On two occasions during that week, again I spoke with Mr. Babbitt's office. As was indicated, we were referred to the White House. When we called the White House, we were referred to the Interior Department.

Late Friday afternoon, the Secretary called again and invited me to an emergency meeting in his office the next day on Saturday. The congressional delegation was invited. I was not able to attend because of my travel schedule earlier, going out the next day, and others have referred to that. But a sense of inevitability just continued to grow.

On Monday, after a weekend that was just a blur of phone calls and meetings with local governmental officials, despite the fact that the buses were being organized to take Utahans to Arizona for the announcement, when the Governor's office would call to get confirmation, we would not even be given a confirmation of where and when or if an event was going to be held.

I traveled then to meet with Mr. Panetta. On Tuesday, the 17th, I met with Mr. Panetta. I was told that he was responsible for making a recommendation to the President. Mr. Panetta said he set aside the afternoon to prepare that recommendation. Miss McGinty and also Marcia Hales and another member of the White House staff were present for that meeting.

My presentation focused primarily on the problems that would be caused by the complete abandonment of public process. I explained that it was our deep desire as a State to have many parts of this land and this region protected. I detailed for them a proposal that ironically we called "Canyons of the Escalante: A National EcoRegion." I described for them that, you know, proposal that had resulted from an intergovernmental public planning process that I had initiated three years earlier to protect this very beautiful area.

The concept was developed by State and local and Federal land managers working together for over a year. It would have provided

flexibility, and yet it gave more stringent protection for some of its more pristine areas even than that which was ultimately proposed.

I also spent considerable time that day discussing our school trust lands. Mr. Panetta asked me to explain the status of those lands. Prior to our discussion, he told me that he was unaware of their existence or their importance and asked me to explain our relationship with them and the relationship with the school children in our State.

Our meeting lasted just under an hour. Mr. Panetta told me that it was the first time that he had had a chance to really focus on the issue. He reiterated that he would make a recommendation to the President that afternoon. He told me that he didn't like making decisions in a vacuum like this.

At the conclusion of the presentation, Mr. Panetta said, "You have made a compelling case," to which I replied, "If this is compelling to you, then before the President sets aside a piece of land equal to the State of Rhode Island, Delaware, and the District of Columbia combined, he needs to hear the same information directly from the Governor of the State." I was told that Mr. Clinton was campaigning in Illinois and Michigan, but that he would call me later in the evening.

Wednesday now, September 18, the day that the monument was to be declared, at 1:58 a.m. Washington time, my telephone rang. It was the President. The President told me that he was just beginning to review this matter and the recommendations. I restated in short form the material that I had discussed with Mr. Panetta.

The call lasted nearly 30 minutes. At 2:30 a.m., we were both very tired, and I offered to write a memo to the President that he could read when he was fresher in the morning. He requested that I write the memo.

I sat at my desk in the hotel room and prepared a handwritten two-plus-page memo to the President. It was faxed to him at his temporary quarters in Illinois at four o'clock that morning. The memo told the President that if the monument was to be created that he should create a commission that included State and local officials to recommend boundaries and to solve a number of the management questions.

I told him that he should work toward a policy that protects the land but also preserves the asset and maintains the integrity most importantly of a public process. I knew that the local government leaders in that area would welcome such a process. I knew that from having spoken with them many times.

At 7:30 in the morning, I spoke with Mr. Panetta. He had also reviewed the memo that I had written for the President, and, again, he indicated that he felt my ideas had merit. He said he would be reviewing the matter again with the President. The President had to leave shortly to fly to Arizona.

Later in the morning, Mr. Panetta called to inform me that the monument would be announced. He detailed the conditions of his action which gratefully incorporated some of the suggestions that we had made relative to water and wildlife access and the planning process with local and State participation.

At two o'clock eastern time, the President stood at the north rim of the Grand Canyon to announce the creation of the Grand Stair-

case-Escalante National Monument and its 1.7 million acre expanse of Utah's Garfield and Kane Counties. As has been mentioned, no Member of Congress, no local official, or had the Governor ever been consulted, nor had the public.

As the Governor, I had not seen a map. I had not read the proclamation, or, for that matter, was I even invited. This isn't about courtesy, it is about process. It is about public trust. A major land decision, perhaps the biggest land decision that has been made or will be made in the next two decades, had occurred. Obviously, this is not the way public land decisions should or were ever intended to be made.

In 1976, this nation made an important public policy decision. Congress passed landmark legislation, FLPMA, requiring that we have great deliberation and that we take great care in making decisions about public lands and how they be used.

That act, and other related legislation, contained protections for State and local governments. It is going to be the policy of this Administration and is currently that we will not be denied those protections, and we will do all that we have to do to assure that we are afforded them.

The President's use of the Antiquities Act to create a monument was a clear example of inadequate protection. Our system of government was constructed to prevent any one person from having that much power. The law was originally intended to provide emergency power to protect Indian ruins and other matters of historic importance.

Over the past 90 years, the Federal Courts have allowed the gradual expansion of those powers. The President's recent proclamation was a classic demonstration of why the founders of this nation divided power. Power unchecked is power abused. Utah and other States need protection from further abuses of the 1906 Antiquities Act. My Administration and other States I hope will join with us in supporting appropriate amendments.

Land preservation decisions must be considered in relationship to the land and the local economy. And the State of Utah intends to intensify our efforts to assure that that occurs. Historically, whenever the Federal Government has determined that a local interest is subordinate to a national interest, then some kind of Federal assistance is afforded. We should all focus on how that should be done.

Mention has been made already of the school trust lands and their importance. And more will be stated, and my formal testimony includes more. And I will, in the interest of time, not mention those except how deeply we believe that the national government owes us compensation and must do as the President suggested in making compensation in favor of the school children.

I want to say that I appreciate the President's remarks concerning the trust lands that he made at the time he signed the declaration. And I appreciate his decision to resolve any reasonable differences, as I have suggested, in their favor.

But I will also like to point out that there is considerable expense involved in going through this process. We estimate it may be as much as 5 to $10 million on the behalf of our school trust just to go through these negotiations. And we would ask that the national

government compensate our school trust for those particular expenses.

I would also like to emphasize in that we are now into this three-year period to pick up the pieces, the State of Utah is committed to being a full partner in this process. Promises have been made by the President and the Secretary to ensure that the State has a prominent role, and to this point, those have been kept.

I did ask, however, that the proclamation be amended to include the President's promises to me directly and those that he made to the American people on national television. That proclamation has not been amended, nor have they indicated a willingness to do that. There is legislation pending before the Congress that would memorialize that language. I would urge its adoption.

In closing, may I just like to reiterate again that we believe that some kind of protection to this sensitive and spectacular lands of the Escalante area needs to occur. However, I deeply regret that President Clinton didn't keep public trust by choosing to follow the process in protecting this area.

Had Mr. Clinton been willing to discuss his ideas with those in Utah, he would have found that we were anxious to do so, that we would have worked closely with them, and local and State representatives were ready and willing to work with his staff to make the best protection possible. Obviously, this didn't happen.

President Clinton was unwilling to reveal his plan to any elected official. Perhaps the only thing more disappointing to me in this whole process is the fact that while he was not willing to consult with us, he was willing to consult with other western leaders, as Senator Bennett has suggested. My colleagues in other States were consulted. Former governors from other States were consulted long before this. Members of Congress in other States were consulted. The Governor of the State, nor local officials were not.

The memo that Senator Bennett refers to causes me great distress. It makes reference to the clear fact that if, in fact, this became a matter of public knowledge, it might change the course of it. And I think that is an absolute certainty.

The events constituted a partisan political rally that had been planned and executed to be an under-the-cover-of-darkness event—a surprise. I find it regrettable that someone that we have entrusted to the highest office of the United States would be willing to undertake a process that was purely partisan on a matter of such importance.

We as a nation need to examine the power that is given to a single person in this case. It is too late for residents of southern Utah living in the area of the Grand Staircase, but it is not too late for other areas of Utah or of the United States. And, Mr. Chairman, we urge consideration of the amendments that are being proposed.

[Statement of Governor Leavitt may be found at end of hearing.]

Mr. HANSEN. Thank you, Governor. We appreciate your testimony. Kathleen McGinty, we appreciate your attendance here. We will turn the time to you now.

**STATEMENT OF KATHLEEN MCGINTY, CHAIR, COUNCIL ON ENVIRONMENTAL QUALITY**

Miss MCGINTY. Thank you, Chairman. Mr. Chairman and members of the Subcommittee, thank——

Mr. HANSEN. Could I ask you to pull that mike up just a wee bit closer if you would please? Thank you very much.

Miss MCGINTY. Thank you for the opportunity to present testimony concerning the Grand Staircase-Escalante National Monument. As I have testified on previous occasions, I was directly involved in the President's decision to establish the monument.

I understand that different people have different views of these lands. For my own part, I have never seen a place as beautiful, as wild, as close to the hand of God. The earth's own history is openly told as nowhere else in the canyons and plateaus, the slickrock, and the sandstone.

The history of courageous, resourceful people graces this land. In a continent of rising noise, urbanization, and busyness, I think this rural, remote, quiet, often austere Federal land deserves protection. But I do respect the views of others, including some here today who saw other values in the land.

I also understand that different people have different views about the President's proclamation itself. For my part, I think the establishment of the monument was one of the most profound and appropriate acts of land stewardship ever taken in this nation.

It is an understatement to say that the lands contain objects of scientific or historic interest as the Antiquities Act requires. Conservation of the lands has been hotly debated for decades and by last year the lands were in real jeopardy. The President exercised his authority, despite potential political risk, to assure their continued protection.

He protected the land and traditional uses, the multiple uses of the land such as grazing and hunting that are central to the area's rural values and quality of life. I think the President did exactly the right thing. But, again, I respect the views of those who see this differently.

You have asked me to describe how the monument proclamation came to be, and I am pleased to do so. The record on this matter tells a simple and straightforward story. Protection of Federal lands and resources has been a priority for this Administration since our first days in office. Their protection remains a priority today.

Federal lands in Utah were not often in the national spotlight during the first two years of the Administration. That status changed, however, with the advent of the 104th Congress. Throughout late 1995 and early 1996, Congress and, in turn, the President personally brought increasing attention to public land issues in Utah largely in connection with congressional efforts to enact legislation that would have removed Federal lands from wilderness protection.

Indeed, by November of 1995, the Salt Lake Tribune covered the emerging debate in a story headlined, "Utah Wilderness Battle Becoming a U.S. Issue." Editorials ran in many national and regional papers sharply condemning the proposed legislation.

In this context, the Interior Department repeatedly testified that the agency would recommend that the President veto the Utah Delegation's proposed legislation. In December 1995, the Office of Management and Budget and the Executive Office of the President elevated the issue by sending a statement of Administration policy that conveyed the Administration's many objections to the bill and made clear that if presented to the President, the Secretary would recommend a veto.

The President's concern intensified. In March, the Office of Management and Budget again advised the Congress the Secretary would recommend a veto even of the Omnibus Parks bill, pending legislation that this committee is aware contained essential priorities of the President. But if that bill contained the pending Utah legislation, the Secretary would recommend a veto. In that same month, the Vice President issued a statement underscoring once again the President's determination on this front.

The President's focus on southern Utah lands also reflected widespread and building concern that proposed coal mining in the area could irreversibly damage Federal lands and resources. This concern was reinforced by provisions within the proposed legislation that promoted mining on the Kaiparowits Plateau.

In light of these pressures, in June of 1996, the President decided to ask the Secretary of the Interior for advice on whether there were Federal lands in southern Utah that were eligible and appropriate for protection under the Antiquities Act. I relayed the President's request orally to Interior Solicitor John Leshy in a meeting in my office on July 3, 1996, and the President spoke directly with Secretary Babbitt over the July 4th weekend. This request was restated by the President in writing on August 7.

In response to the President's request, the Interior Department conducted an extensive analysis and prepared a recommendation. The Department's recommendation was transmitted on August 15 and was supported by extensive documentation. I strongly supported the Department's recommendation.

The Antiquities Act has been used more than 100 times since its inception. For example, the Grand Canyon, Grand Teton, Arches, Capitol Reef, Cedar Breaks, Dinosaur, Natural Bridges, and Zion were all originally protected by Presidential orders issued under the Antiquities Act. In fact, since this century, every President except three has established national monuments.

In late August and early September 1996, at least two press accounts emerged that reported, in essence, that the President was reviewing the Department's recommendation. During the same period, the President and many of his senior staff and cabinet had numerous conversations with Members of Congress and their staffs, governors, and other interested parties. These conversations continued until September 18, 1996, the day the President issued the proclamation establishing the monument.

The President made his decision only after speaking directly with or otherwise being made fully aware of the perspective of Utah officials and many others. The President's proclamation reflects the broad range of advice he received, considered, and balanced.

For example, in establishing the monument, the President protected State water rights. In order to ensure important rural val-

ues, the President directed that hunting and fishing would remain top uses of the land. He also directed that existing grazing permits, leases, and levels would not be affected. And he called for an extensive public planning process that would directly involve local communities.

The President committed his Administration to land exchange measures benefiting Utah's schools, and he directed the Secretary of Interior to establish an unprecedented partnership with the State of Utah. The President has followed up each one of these commitments with the funding and budget requests that are necessary to get the job done.

Members of this committee know well that for decades people of goodwill and divergent opinions have debated the proper management of Federal lands in Utah. Questions have remained unresolved for two generations or more.

The President's establishment of the Grand Staircase-Escalante assures Americans from Utah and elsewhere that they can continue to use and enjoy the area essentially as they always have. In addition, the President has put forward the mechanism finally to break loose a large and important area of Federal lands in Utah from the gridlock that otherwise has prevailed for nearly 100 years.

Today, this Administration, the State of Utah, Utah residents, and interested Americans from around the country are commencing the critical work of deciding how the lands are to be managed. The collaborative intergovernmental planning process led by Secretary Babbitt is a fair, open venue reflecting the breadth and balance of the President's proclamation. This process has ample room to safeguard rural community values and the land itself.

In this regard, I would like to commend and acknowledge the leadership of Governor Leavitt, who is personally engaged in this effort and has committed his own time and top staff resources to ensure that this effort gets underway and engaged in a very positive manner indeed. It is good news that now in the final years of the 20th century we are finally moving forward and moving away from the gridlock that otherwise has held sway.

The President's leadership means that gridlock has been replaced by dialog, deadlines, and deliverables. The President set the foundation for progress, and people of goodwill are coming together to build on that foundation. We are proud of this effort, committed to it, and we will work to see it through to a successful conclusion. Thank you, Mr. Chairman and members of the Subcommittee. I would be pleased to respond to your questions.

[Statement of Miss McGinty may be found at end of hearing.]

Mr. HANSEN. Thank you very much for your testimony. Secretary Babbitt, it is an honor to have you here, sir.

## STATEMENT OF HON. BRUCE BABBITT, SECRETARY, DEPARTMENT OF THE INTERIOR

Secretary BABBITT. Mr. Chairman, if I may, I will submit my prepared remarks for the record and just see if I can fill in a few items with respect to the events leading up to the proclamation and then see if I can talk just a bit more about the process that is now underway in partnership with the State of Utah and the local community.

Mr. HANSEN. Mr. Babbitt, let me just interrupt you to say all of the records, the documents will be included in the record. And anyone who is so inspired to reduce their remarks is encouraged to do so.

Secretary BABBITT. Mr. Chairman, thank you very much. Just a word about the Antiquities Act. The Antiquities Act is 91 years old. It has been one of the most successful environmental laws in the history of the United States of America. Every President in this century since Theodore Roosevelt, with three exceptions, has used that Act, and Congress has inevitably validated and confirmed the presidential exercise of authority under that Act.

I would personally oppose any attempt by this Congress to undo 91 years of unparalleled success, and I strongly urge you to turn away from any movement to again try to undermine the structure of existing environmental laws and to more appropriately devote our energies toward the issues that we now address in the management of this extraordinary national monument.

Secondly, let me just briefly say that I understand there are questions about the nature of the debate that preceded the President's proclamation. I would only say that the future of these lands in southern Utah is, without any possibility of contradiction, the most extensively and publicly debated piece of turf in the history of the United States of America.

This debate I think really began when Clarence Dutton wrote a report back in the 1880's as part of the Powell Survey. It extended along into the 1930's with proposals by my predecessor, Secretary Ickes. It has recently flowered once again in the debate over the wilderness legislation. Chairman Hansen and I have had a debate about wilderness inventories. It came up again in the parks legislation in the past year.

And in that context, I think it is very important to not get carried away with this notion that somehow this was an unanticipated and sort of act that just appeared out of nowhere. It is a culmination of a long, intensive debate as indeed happened with most of the other exercises of presidential power under this extraordinary environmental law.

Now, let me briefly say a word about the process that we are embarked upon, and I take note at the outset that Governor Leavitt has conceded that the process is working in that we have produced on our commitments.

Just a word about the origin of those commitments. I was in Las Vegas the night before the President appeared at Grand Canyon. He called me at some incomprehensible hour of the night, awakened me, and told me that he had been talking with Governor Leavitt, and that he had a number of issues that he wanted to go over with me at that point.

He asked me specifically about hunting, fishing, valid existing rights. I explained that there is a body of law that protects all validly existing rights. He asked me about the issue of water rights, which obviously is a sensitive issue. I said that the proclamation is drafted to exclude any reservation of any kind. It expressly leaves the issues of water rights to the State of Utah.

He asked me about private land. I indicated once again that private land is entirely unaffected by the proclamation that he was

then looking at. He told me that he had discussed the school lands issues with Governor Leavitt, and he asked me to explain what that issue was about.

I began by explaining that I was familiar with the issue because during my tenure as Governor of Arizona, the Arizona school trust had been involved in this issue, and we had exchanged more than 2 million acres of land with the United States and the Secretary of the Interior in a situation exactly analogous to the issues that have been put forward by the State of Utah.

I reminded the President that in 1993 he signed a bill called the Utah School Lands and Exchange legislation which was designed to facilitate land exchanges that were already at issue because of inholdings in national forests and national parks in Utah. And I explained to him briefly that that process was underway, that we were working cooperatively with the State of Utah to facilitate those exchanges, and that it was my opinion that the State inholdings in any new national monument could very appropriately follow an identical track.

We also talked about a management plan and the issue of interim provisions until completion of the management plan. As a result of all this, he asked me if I would write some language. I said, "Mr. President"—I finally kind of cleared my eyes and looked at the clock, and it was I think about 2 a.m. in Las Vegas, and I said, "Well, yes, I will try to do that."

I then went over to Grand Canyon the next morning and spoke to him while he was on the way from Chicago, once again went through these issues, sent him some language for his statement, and then reviewed it again with both him and the Vice President when they arrived at Grand Canyon.

I take you through that just to emphasize that these issues raised by the Governor, raised by Senator Bennett in a letter to me, raised in my discussions with the delegation on the Saturday prior to the announcement were heard, very seriously were reflected in considerable detail in both the proclamation and the President's statement. And we are, in fact, well underway, as Governor Leavitt acknowledged, to the implementation of those commitments.

Very briefly, the first thing we did was to appoint a widely respected Utah BLM manager, Jerry Meredith, to be the monument manager. With the assistance of Governor Leavitt, we have appointed a 15 member planning task force of professionals. Five of those are State of Utah officials designated by the Governor of Utah.

I have issued interim guidelines for management of the monument. They are of public record. They are available. They have elicited, to my knowledge, no negative response of any kind. But we have sat down with the two counties principally involved, Kane County and Garfield County, to see if we could help with their local planning needs. That resulted in a grant from the Department of $200,000 to the Kane County Commission to get their efforts started. I am confident and hopeful that we can get a similar agreement with Garfield County.

With respect to the school lands, the process laid out in the 1993 legislation continues. The appraisal process that was put together

jointly by the State of Utah and the Interior Department has produced appraisals on approximately 500 sections of school inholdings.

These go back, Mr. Chairman, many decades. It was in this Administration that the Governor, the Interior Department, and the Congress decided that it was time to resolve this issue. Those appraisals are back. The Department has accepted approximately 400 of the 500 section appraisals.

Now, let me stress once again that those sections are identical in terms of their import to the school trust. They arise out of the same kind of process, and it is my anticipation that the school sections within the Escalante Monument, in an acreage about equal to the ones that are already in process from all of the accumulated land history of Utah, can and will be processed.

They are premised on equal value exchanges because that is the Federal law. It always has been, and that takes a fair amount of work to get these appraisal processes agreed upon, to iron out any differences. We did it for 2 million acres in Arizona during my time as governor. The acreage involved here is less than half a million acres. I am absolutely confident that we can proceed to get that done.

In summary, the President meant what he said. Items in his statement relating to the management of this new partnership were constructed in response to issues raised by Senator Hatch, Senator Bennett, and Governor Leavitt. It has the makings of an unprecedented partnership—Federal, State, local. It is working. It is now backed up by a $6.4 million line item request in our 1998 budget, and we are prepared to bring this to fruition as a model for how this kind of process can be done. Thank you.

[Statement of Secretary Babbitt may be found at end of hearing.]

Mr. HANSEN. Thank you, Secretary Babbitt. I will allow each member to take five minutes to question the panel. I will break with my tradition and start myself. When this was announced, this sent shock waves through Congress. I can't tell you, Mr. Secretary, how many calls I got from Members saying, "I don't want this to happen to my State."

As you know, Wyoming and Alaska are excluded from the Antiquities Law so I would hope I could talk you into softening your position and think this through a little bit before you unequivocally say you would go against the Hatch-Hansen bill, which basically would not do away with the Antiquities Law for many States, it would just limit it to 5,000 acres. And then on top of that, the Governor and the Congress would have something to do with it.

But I think we all realize that since 1906 we have had the Wilderness Act, the NEPA Act, the FLPMA Act, and all of those make a difference on it. So why don't you give it some prayerful thought. You may come up with another conclusion if you think about it and read our bill extensively. I would like to ask Governor Leavitt as the Chief Executive Officer of the State of Utah, what seemed to be the reaction of the folks in southern Utah, and what do you see?

Governor LEAVITT. Mr. Chairman, it was not just the people in southern Utah, it was the people of Utah who believe that the process was inadequate, and that we were not considered or consulted, and that, again, I would restate what you have suggested, that it

is not the protection of the lands because we were moving forward with concrete proposals that had been coordinated with Federal, State, and local officials, it is the complete lack of process. It was the fact that it was done under the cloak of secrecy.

As I suggested in my testimony, we made a very important public policy statement in this country in the late 70's when we decided that decisions like this would be made in an open way. We are often required—in fact, always required—to follow that process in everything that we do. And sometimes it becomes quite a burden, but we follow it. And so there was considerable both disappointment and outrage.

Mr. HANSEN. Thank you. Miss McGinty, you know, I have been trying to figure out who wins on this deal. In my humble opinion, the environmentalists shot themselves in the foot, that things now will be open to be seen. More roads, airports, railroads, the whole nine yards could go in there.

Already in this morning's paper there was a thing about all of the people now coming to look at the Escalante area. Right here—"The visitors are flocking to Escalante."

You have all alluded to the idea of other monuments being created, and I concur with that. I think Theodore Roosevelt did a super job on it. And like Senator Bennett, we too have looked into how these came about. Have you ever been on the land? Have you ever been on that 1.7 million acres?

Miss MCGINTY. I have indeed, sir.

Mr. HANSEN. You have traveled around it and seen the whole thing?

Miss MCGINTY. Well, I couldn't attest that I traveled on every part of 1.7 million acres, but I have traveled through the area. Yes.

Mr. HANSEN. You know, it kind of amazes me, and no disrespect to anybody here, but it is like the Nicaragua War. People used to go down and say that they have seen it, and they flew over it in a DC–10 and turned around and came back and said, "Gee, we have seen it. We have great knowledge of it." And I am not saying that that is the case here.

We can't see really who gained from this thing. Now, it will be an open area, absolutely—I don't think—I think they extinguished wilderness on the monument. There is quite a bit of difference between a monument and wilderness. And monuments are to be seen. I think Senator Bennett is right on the things that he is coming up with in his bill, and I hope you have taken a look at that bill. The Democratic party lost a member over it. I just have a hard time seeing where is the win-win on this.

And for someone who was raised in the West and probably—I dare say I sound a little presumptuous on my part that I probably spent more time in the outback than probably anybody in this room and made a life of doing that. If the Administration had come to us and said, "Let us reason this out," I would have agreed wholeheartedly that Waterpocket Fold should be a monument. I would agree that the Escalante Canyon should be a conservation area.

But I can hardly believe that the areas around Big Water and Andalex and those areas that they were talking about ever qualifies whatsoever. If they had taken the time to do that, I think we

would have worked out something that could have been done. Any reason why we didn't do that?

Miss MCGINTY. Well, let me say, sir, first of all in terms of the values that are protected here, the Antiquities Act looks at objects of scientific and historic value. So in terms of the definition or the boundaries of the monument, they are informed by a scientific and technical analysis that identifies where those objects are, and that is what was at issue here.

In terms of the ultimate use of the land, the reason the President feels so strongly about the three-year process that is now in place is exactly so that there is a process where local communities can and will be involved, the State is intensively involved, to work our way through the issues as to how the land should be managed.

We have great confidence based on the start we have already had in these discussions that this is a process that can handle and bring to fruition these issues that, again, had defied resolution for generations.

Mr. HANSEN. But we haven't seen any of those objectives catalogued. In a memo from Marcia Hales to you dated August 5, 1996—I see my time is up, and I am going to hold everybody to their time—I will hold myself to my time—but I have a number of questions I would like to ask you and other members of the panel. And if any of my colleagues are so inspired to yield to me when they get their time, I would be very appreciative. But I will turn now to my friend from American——

Senator HATCH. Mr. Chairman, could I just make one comment?

Mr. HANSEN. Senator Hatch.

Senator HATCH. Yes. I listened to Miss McGinty and her comments, and I am sure she is very sincere. But she said there has been a process here because they did discuss this with the two Nevada Senators, as I recall, Senators Reid and Bryan. They discussed it with Roy Romer, who was Governor of Colorado and now is head of the Democratic National Committee. And she said they discussed it with people in Utah.

Unfortunately, they didn't even discuss it with the sole Democrat in the delegation, Bill Orton, and they certainly didn't discuss it with us. And above all, they didn't discuss it with our Governor, who is a reasonable person, who is well respected, who is one of the leaders of the Governors Association. And now they are saying that the process is going to be fair because we will have three years in which to rectify these problems.

I hate to say it, Miss McGinty, but that is exactly wrong. It is exactly opposite of what you should have done, and, frankly, to come here and make these comments like you are really following a wonderful process—due process, if you will, I think is totally false. I apologize for interrupting, but I sit here and I think, "How can she even make those arguments?"

Miss MCGINTY. Mr. Chairman, might I respond briefly?

Senator HATCH. I would like her to respond.

Mr. HANSEN. I will give you a minute to respond, and then we will move on.

Miss MCGINTY. Thanks very much. The three-year process we are engaged in now will answer questions as to the management of the lands in question. However, what I laid out in my oral testi-

mony was a history, at least dating since December of 1995, where the President—the Executive Office of the President—put the Congress very clearly on notice of the President's very strong concerns and his determination to see wilderness protections not be taken away from these lands.

That continued in a series of statements from the Executive Office of the President and indeed from the Vice President himself on this. The Secretary paints an even longer history around these issues. These issues have been debated. These issues have defied resolution. We now have the opportunity to move forward, and the President is committed to doing just that.

Mr. HANSEN. Thank you. The gentleman from American Samoa.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. As I sit here listening to the testimony, I am reminded of a little Samoan proverb that says you cut the banana down, and then you ask permission. I am a little concerned because there definitely is a very strong difference of opinion in terms of not only the process, but what has happened.

I asked staff earlier why the State of Utah did not take the Federal Government or President Clinton for that matter to Federal Court if there were any ambiguities about the Antiquities Act itself since this was enacted and since 1906. And I was told that there was really nothing the State of Utah could have done. And I was as curious if there was any possibility that this matter could have been taken to Court.

My question here is not so much the legalities or to say whether or not the President has the authority. The President does have the authority. But I think, Miss McGinty, at least what I am hearing from three of the top officials of the State of Utah is just the question of consultation, the question of courtesy as Governor Leavitt had alluded to earlier.

It is not even the question of courtesy. It is the question of how the process could have been improved, I suppose, before the President made his decision. Apparently, the recommendation of the Department of the Interior was made in August of last year, and the process started evolving around that recommendation.

But my question is has the President ever sent a letter or even an oral communication to any of the top officials of the State of Utah, "Hey, I am going to dedicate 1.7 million acres that is owned by the Federal Government as wilderness area"? I know we have had several pieces of legislation introduced by our good friend Congressman Hinchey, Congressman Hansen, and there have been definitely differences of opinion even on the issue of wilderness area.

But my question is, has the President, since the beginning of his Administration, specifically made his intentions known to the Utah Delegation?

Miss MCGINTY. Sir, to reiterate again in terms of the President's decisionmaking here, the President did not make a decision to invoke this authority until he had personally spoken to the Governor and to other members of the delegation. The proclamation that the President ultimately issued is reflective of that.

Many of the very valid issues raised by the Senators, by the Governor, other members of the Utah Delegation were specifically ad-

dressed and undertaken in the President's proclamation, whether it is State water rights, whether it is the question of grazing and hunting and fishing. All of these things, the President heard the concerns of the delegation and responded to them.

Did he disagree on the basic point as to whether or not to issue the proclamation? Yes. He was aware and received the Governor's proposal as to an alternative route. He considered that fully, but he ultimately decided to go in this direction.

Mr. FALEOMAVAEGA. I noted also the fact that over 65 percent of the State of Utah—the lands are owned by the Federal Government. And I think Secretary Babbitt more than anybody, having served previously as Governor of Arizona, that western States have always been under this situation where the Federal Government always seems to tell them or give directives in terms of what to do especially as it relates to Federal lands.

My question is do you think—and both Secretary Babbitt and Miss McGinty—that Congress should enact appropriate legislation to get the process moving? I mean, it seems that what I am hearing with a $6 million line item that the President is recommending we have some kind of a commission or some kind of a process going administratively but without any congressional enactment.

Do you think that perhaps we should enact any kind of legislation to make sure that it does address the concerns raised earlier by Senator Bennett and Senator Hatch of some of the issues that affect the economic, the social needs of the residents of the State of Utah? My concern is that can it be done administratively, or do we need to get into Federal legislation to make sure that these concerns are addressed properly?

Miss MCGINTY. Sir, I will respond briefly——

Mr. FALEOMAVAEGA. Please.

Miss MCGINTY. [continuing]—and then turn it over to the Secretary as you requested. Right now we have a process whereby the issues, the concerns that are foremost on the minds of local officials, of State officials are at the table, are represented and being articulated. In fact, those representatives aren't just invited in but are a part of this commission itself.

Mr. FALEOMAVAEGA. Has Senator Bennett ever been invited to this part of the process?

Miss MCGINTY. Secretary Babbitt is overseeing this process and has spoken briefly to the school lands issue. And let me just ask him to respond more fully.

Senator BENNETT. The answer is no.

Mr. FALEOMAVAEGA. Mr. Secretary?

Secretary BABBITT. Congressman, I think your focus in on the key issue, and that is what is the best way that Congress can support the partnership process that is playing out to the adoption of the management plan. This is an unprecedented effort, and really it is where the important issues are going to be decided.

Senator Bennett and others have raised issues about, you know, monument status versus wilderness versus multiple use. Well, the plain fact is that this monument proclamation provides a clean slate on which to write. It does withdraw the area from mineral entry. That is unquestionably the case, and it was intended. But with respect to all other uses, the future is open for discussion.

Now, we have two tracks going. One is the 15 member task force which is preparing the management plan. I believe that that is an effective approach. Governor Leavitt has appointed five of the 15 members under the leadership of Jerry Meredith, and I believe that is working well.

The second issue is the exchange of school lands. Now, once again, what I would say is Congress in 1993 put up a process for the exchange of school lands, and we have worked with the Governor to set up a joint process for moving on appraisals. I think that is the right way to go. Now, if the Governor should decide differently, that he wanted to change that, we would certainly be willing to engage with him on that issue.

You avert to the issue of appropriations—very important. Kane County and Garfield County—both raise some important short-term considerations about search-and-rescue, law enforcement, and additional burdens on the counties as a result of increased visitation. I would suggest that we should have, you know, a good review in the context of the budget process to make certain that our request fairly contemplates both the process and the additional burdens on the county.

Mr. FALEOMAVAEGA. Mr. Chairman, I know my time is up, but I would still pursue my question. I don't think it has been answered. Do we need congressional legislation to get the process moving to answer the concerns raised earlier by the Utah Delegation?

Secretary BABBITT. No.

Mr. FALEOMAVAEGA. Thank you.

Mr. HANSEN. Now, Secretary, you may want to think that one through also. The gentleman from Colorado.

Mr. HEFLEY. Secretary Babbitt, I have here in front of me a National Park Service Strategic Plan Final Draft 1996 that I am sure you are familiar with. This came out prior to the proclamation. And yet on a map on the inside cover of this showing the Park Service units across the nation, this unit is listed on that.

And then the Park Service—someone must have realized that we are jumping the gun, and they tried to white it out so that it wouldn't be on there. Would you care to speak to that? It doesn't sound like a decision that was made at the last minute while the President was in Las Vegas or somewhere before he went down.

Secretary BABBITT. Congressman, I suspect the Park Service was, as they have ever since 1916, been pretty aggressive about looking at new opportunities. Now, the bottom line is that the Administration at my recommendation decided that this monument should be administered by the Bureau of Land Management.

Now, I spoke with the President about these issues, if I can just frame this, because I appreciate Senator Bennett's response or his comments regarding my role. I think they reflect it accurately. I discussed this matter with the President early on in the summer. I discussed it with him on the Fourth of July on a trip down to Petuxan and, after that, fairly early on discussed with my Solicitor the shape of their response to the White House.

And I said to the Solicitor, "You should view yourself as working for the President. It is his authority. It is not mine. And I am, in effect, delegating you to prepare whatever it is the White House re-

quests." Now, I said, "I have two opinions with respect to this. One of them is that if the President makes the proclamation, it should, in fact, place this monument under the jurisdiction of the Bureau of Land Management."

Why is that? Because it was my feeling that the Bureau of Land Management has a pretty good working relationship out there on the land. They have been there a long time. They are acquainted with the local people. And it seemed to me that it would give the people of southern Utah some added comfort and sense of participation.

Secondly, it was my feeling that the monument administered by the Bureau of Land Management would provide more flexibility in the adoption of a management plan. Remember, I talked about the blank slate. It was really my feeling, and I expressed that early on, that the best way to fulfill that if we are going to draw the outlines of this monument in the management plan would be for the Bureau of Land Management to do it.

Mr. HEFLEY. Secretary Babbitt, who was President when you were Governor of Arizona?

Secretary BABBITT. I served under a couple of Presidents. Let us see. I became Governor in '78—President Carter; left in 1987—President Reagan.

Mr. HEFLEY. Well, let us take President Reagan. As Governor, if you can take your Interior Secretary hat off and put your Governor hat back on—as Governor——

Secretary BABBITT. Sometimes, Congressman, that is very easy and very appealing let me tell you.

Mr. HEFLEY. If President Reagan had done exactly what President Clinton did but he had done it to Arizona when you were Governor, without consulting you, without even inviting you to the ceremony, unilaterally made this decision, how would you have responded? You are a champion of your State in that role.

Secretary BABBITT. Well, I will tell you, I fought with the Reagan Administration a whole lot about public lands issues. There was a sagebrush rebellion going in those days, and I consistently spoke up in favor of the Antiquities Act, the Wilderness Act, the need to protect federally owned lands. And I suspected that President Reagan—it seems unlikely that he ever would have—but had he approached the idea of creating a national monument, I would have been all in favor of it.

Mr. HEFLEY. You would have been in favor of it in spite of the fact that he didn't really consult you and ask, "What do you think about the boundaries? What do you think about the location? What do you think about the number of"——

Secretary BABBITT. Well, Congressman——

Mr. HEFLEY. Are you telling me you would have thought that was appropriate behavior on the part of the President?

Secretary BABBITT. Congressman, I guess by reference to this, President Clinton did speak with the Governor. He did order me to meet with the delegation. And had the Reagan Administration—again, had they spoken with me, asked my opinion, reshaped the proclamation and the comments to be directly responsive to my views as Governor of Arizona, I think I would have thought that was pretty good.

I might have said, "Well, I wish you would have done it earlier," but I think what I really would have said is, "They talked to me. They heard me and they gave me my time. And they responded and I can see it in the proclamation and the statement that went with it."

Mr. HEFLEY. Do you think, Secretary Babbitt—I see my time is up. Let me just ask, do you think the timing at all is curious here? The lady mentioned that we have had many, many years of discussion of this, but the timing was such that 45 days before an important election, when all the stops were being pulled out to re-elect the President, they did this, and that people were invited—not these three gentlemen sitting beside you there—they weren't invited, not the gentlemen from Utah here on the dais—they were not invited, but the Governor of Colorado was invited.

And on the Governor's plane in Colorado, he had the U.S. Senate candidate from Colorado, the one running—the Democratic candidate from Colorado, not the Republican candidate—it wasn't a general thing—but the Senate—the Democratic candidate was on that plane. Do you think by any stretch of the imagination that this might have been strictly a political thing that the timing was the way it was?

Secretary BABBITT. No, I don't.

Mr. HEFLEY. Somehow I am not surprised by your answer.

Secretary BABBITT. I think the timing of this was driven by the Utah wilderness debate which came up in that session of Congress. There was a long and rancorous public debate. Congressman Hansen and others were pushing a wilderness bill which was absolutely unacceptable to the President.

There was some talk about attaching the wilderness bill to the Omnibus Parks legislation. I recommended to the President that he threaten to veto the Omnibus Parks legislation. This stuff was front and center, and it was going the wrong way.

It was in the context of attempts to begin selling off national parks, to be releasing lands that had been protected by wilderness study areas. And my view was that the time was absolutely right for presidential decisionmaking in the tradition of Theodore Roosevelt—exactly what he did, and history is going to honor his acts as one of the really important moments in American conservation history.

Mr. POMBO. Mr. Chairman, I don't know who has time, but if they could yield for a second?

Mr. HANSEN. I have the time now.

Mr. POMBO. He said something about selling national parks——

Mr. HANSEN. Well, they haven't gone over that, but let me just respectfully say there was no bill that sold any national parks anywhere from this Congress.

Senator BENNETT. Mr. Chairman, may I make a quick comment?

Mr. HANSEN. I will give you one minute.

Senator BENNETT. As of that date, the Utah wilderness debate was over. And if the Secretary's congressional relations people didn't tell him that, he needs to get some new ones. That debate was over. The issue was settled. It was very clearly a dead issue, and nothing was pending in the Congress at that time.

Secretary BABBITT. Senator, if I may, that issue isn't dead. It is as alive as can be.

Senator BENNETT. I am talking legislative process. That issue legislatively was dead in the Congress at that time.

Mr. HANSEN. Anyway, let us calm down on that issue, and we will move on. Senator Bennett and Senator Hatch, Governor Leavitt, by unanimous consent, as I first came up with it, is ask you to come up to—which was agreed on—if you would like to come up to the dais, that is fine with us. Governor?

Governor LEAVITT. Mr. Chairman, I am going to ask to be excused from the hearing for just a few minutes. I have another commitment, and I would be coming back. If it is possible, I would like to just make one brief statement on the question that was asked, and then I will have to be excused.

Mr. HANSEN. Is there objection? Hearing none, go ahead.

Governor LEAVITT. I would like to just put some context on the discussion of process and discussing this with the Governor. In all of my conversations with Mr. Panetta and with the President, it was very clear to me that this was a political freight train that had run out of control as far as they were concerned. They were—if this were a wedding, the invitations were out, and the caterer was setting up. And that is the problem with this whole—this kind of serious decision being made in this context.

I have very little question that if this had been aired in the light of day, the monument may well have been developed, but it would have been done—it would have been different in its context. And I think, frankly, the President would have felt just as good about the fact that he created a monument, but his legacy would have been honored far greater in the way it was done.

Mr. HANSEN. Thank you, Governor. The gentleman from New York, Mr. Hinchey, is recognized for five minutes.

Mr. HINCHEY. Mr. Chairman, I had intended to ask a question or two of members of the panel who are apparently now leaving. So I suppose I will take the opportunity to do that——

Mr. HANSEN. Senator Bennett has elected to stay.

Governor LEAVITT. I will come back.

Mr. HINCHEY. I was going to address a question to Governor Leavitt, but, Senator, maybe——

Mr. HANSEN. Governor Leavitt has elected to hear your question.

Mr. HINCHEY. It often happens with the passage of time that new perspective is provided for the viewing of certain actions and events. And I just wonder what the attitude is of the people in Utah and you, Governor, with regard to prior designations of national monuments like Bryce and Zion and the others, particularly those perhaps that were designated in 1969. There was a great deal of controversy at that time surrounding those designations.

My sense is that with the passage of time, that controversy has entirely abated. And on the several trips that I have made to Utah, my experience has been that the people there are very supportive of those designations and are very proud of the fact that these national monuments are in their State. Am I accurate about that?

Governor LEAVITT. Mr. Hinchey, I grew up in that area. We love those parks as we love the area of the Grand Staircase. But I would remind you that since those were designated, considerable

change has occurred. We made some important decisions in this country regarding process. All of those designations that you have indicated were preceded by substantial progress and public discussion.

Since those were designated, we have also passed FLPMA, which was a clear statement that we would not make decisions of importance without broad public process. Whether or not we appreciate and love this land is not the issue. Frankly, no one in this country can love that land more than those of us who live there.

But we also honor the process and recognize its importance, and that is why we are here today, to argue that this legislation, the 1906 Antiquities Act, ought to be amended because it is easily abused.

Mr. HINCHEY. Well, I fully respect that, Governor, your point of view. But my experience is quite different because I have had the opportunity to see this debate and to look at it in its historical context—the debate surrounding this particular designation.

And as has been pointed out here once or twice during the course of this hearing alone, this is a debate—a very public debate that goes back at least as far as the 1930's. And the issue of this particular monument and the land surrounding it was the subject of very substantial debate in the most recent Congress—the previous Congress.

Governor LEAVITT. As far as I know——

Mr. HINCHEY. And it strikes me in my reading of the experience with the designation of the monuments in 1969, as well as Bryce and Zion, and looking at the controversy that surrounded them at that time, there isn't an awful lot of difference. People then made the same argument, that there wasn't adequate explanation. There wasn't adequate time for consideration, that this was done without consent. But the fact of the matter is that those actions now are supported, from what I can tell, almost universally.

Governor LEAVITT. So you would argue that because people said basically the same thing after the process as they said before the process that we shouldn't have the process?

Mr. HINCHEY. No. I think the process is fine, and I think that the process has been honored in this particular case. I think there was substantial public debate on these issues.

Governor LEAVITT. Mr. Hinchey, as far as I know, the only times I have heard the word national monument uttered during the time that I have been Governor was in a conversation I had with the Secretary some two and a half years before in a casual way, speaking theoretically, and then when I read the article in the Washington Post. Between those two points, there was no process.

Mr. HINCHEY. Well, I was here in Washington most of the time, and there was a different discussion that was going on here. I thought that people around the country were reading that in the newspapers and hearing about it. Maybe that wasn't the case. But then let me ask you about you had a proposal of your own for Canyons of the Escalante that you had developed. Did you have an opportunity to discuss that with either the Secretary or with the President or with others?

Governor LEAVITT. I discussed it at length actually with the Secretary working to enlist he and his agencies in the preparation of

the proposal. They were gracious in their willingness, and it produced what I think to be a far better product because it included the enthusiastic interest of both Federal, State, and local governments. It provided enormous flexibility and would have protected—not only preserve the land, protected the assets, and it would have also honored the process.

Mr. HINCHEY. Well, thank you. I appreciate that. And I wasn't aware of it. But I just want to return to my own experience with regard to the area of southern Utah where this monument designation has taken place—this 1.7 million acres.

I have only been here for a little less than five years, and from the moment I arrived here in the 103rd Congress, I was made aware of the enormous public concern surrounding these lands. And I was made aware of that public concern by people from Utah who came to me and asked me to sponsor a particular bill, which had formerly been sponsored by another representative from Utah who is no longer here.

So my perspective on this is that there has been an enormous amount of public debate across the country, here in the Congress, and in the State of Utah. I traveled with our Chairman here to Utah and participated with him on several public hearings which were held and had the opportunity and—welcome opportunity to meet you at that particular occasion for the first time.

So it seems to me that there has been an awful lot of public discussion about this, and when I hear people say that the public discussion has been inadequate, I have a hard time reconciling that with my own experiences.

Governor LEAVITT. Well, Mr. Hinchey, we are here today to talk about the Antiquities Act. And, granted, there has been an—I spend a considerable amount of my time talking about public land issues—a lot of them—a lot of them. And I would say that to say that qualifies as a discussion of the creation of the national monument is a stretch.

There was no discussion. There was no process. I mean, let us grant the fact that the President may have had an expanded authority than was intended by the Congress and that, in fact, the Courts may uphold it. But let us not call it a process. There was no process.

Mr. HINCHEY. Well, Governor, I certainly respect your point of view, and it is just at odds with mine. But I certainly respect yours.

Governor LEAVITT. Thank you.

Senator BENNETT. Mr. Chairman, may I comment on the question?

Mr. HANSEN. I will recognize the Senator for two minutes.

Senator BENNETT. Your question is a good one, Mr. Hinchey, about later views and changing attitudes. And I will certainly concede and agree with you that many people who opposed some of the existing national monuments have now come to live with that reality and, indeed, in many instances enjoy it.

In the spirit of your historic reference, may I share with you this historic reference coming from staffers who served with my father. My father was involved as a Senator in this same seat with the issue of the creation of Canyonlands and the building of the Glen Canyon Dam.

Many groups that are known to you and known to this committee opposed the building of the Glen Canyon Dam on a variety of reasons, primarily environmental. The issue in the Glen Canyon Dam that was raised was the need for power.

Representatives of the Sierra Club and other groups insisted that this country would never need the amount of hydroelectric power that would be generated by the Glen Canyon Dam, that we would never ever require that much energy in the West, and that the power would go begging; therefore, no need to build the dam.

And they said, "If for any reason we should be wrong in our predictions about the need for energy in the western United States, we still don't need the Glen Canyon Dam because there is all that coal in Kaiparowits that can be mined to provide the power." And they are now coming in and saying, "We had to do what we did here in order to prevent the mining of coal." Historical memory cuts both ways in many of these issues.

Mr. HANSEN. Thank you, Senator. The gentleman from Utah, Mr. Cannon, a member of the committee, is recognized for five minutes.

Mr. CANNON. Thank you, Mr. Chairman. I expressed in my opening remarks a concern about tone, and I have had to look at my colleague from New York several times to reassure myself that there can be a collegial process where civility is appropriate, although I have to say I was grabbing the arms of my chair at some of the statements that were made by the representatives from the Administration today.

I suppose that the tone of civility is vindicated when the room erupts in a belly laugh over a statement that is perceived here in this group and I think, by the degree that it is seen on television, will be perceived as preposterous.

Let me move to a more particular question. There have been several requests, including one from my office, for documents on the development of the idea of the monument. Clearly, one of those documents that is relevant but which has not even yet been given to Congress is the draft environmental impact statement for the Andalex Mine. Can either of you tell us why we haven't received that document?

Miss MCGINTY. I would defer to the Secretary. I know the Secretary is in conversations with the Andalex Company right now.

Secretary BABBITT. The Andalex EIS issue relates mainly to whether or not the company—it has decided that it wants to go forward with that EIS process. Now, as of a couple of months ago, the EIS process was on hold. And to the best of my knowledge, that is still the case. And now to the extent that the draft documents are, in fact, public documents, Congressman, we would certainly make them available to you.

Mr. CANNON. Why were they not included with the documents that your office sent over to us just last Thursday?

Secretary BABBITT. I do not know the answer to that. I would be happy to provide it to you. I am told by my staff that they were not in the request.

Mr. CANNON. I think that from our perspective that request was general enough and clear enough that it should have included that. We would really appreciate a copy of that draft EIS if you could make it available.

Secretary BABBITT. I will take that as a specific request and respond.

Mr. CANNON. Thank you. May I direct a question to each of you, and given the shortness of time, I would appreciate some specificity of answer. Would you please list the people with whom the Administration consulted outside the State of Utah on this monument before proceeding?

Miss MCGINTY. Sir, we responded to—had dialogs with many different people, especially after the news article that has been referred to appeared in the Washington Post. As you can imagine, there was interest expressed from many parts of the country. Various Governors were consulted. Various interest groups were consulted. Members of the Utah Delegation were consulted.

Mr. CANNON. Could you describe those people the Administration consulted before the leaked article, before September 7?

Miss MCGINTY. Before the article appeared, this was a matter within the confines of the Administration. The designation of a national monument pursuant to the Antiquities Act was the President's action and the President's decision.

Yes, there had been conversations I think as the documents that have been provided reflect. This had been worked on. As I testified, the President spoke directly to the Secretary about it, but this was a matter that was in consideration only within the confines of the Administration.

Mr. CANNON. Well, let me just give you another fact so we are not beating around the bush, and we get to the point. On August 5, you sent a memo to the President where you encouraged discussions with Governor Roy Romer, the Senators from Nevada. Was that only a proposed discussion, or were they talked to?

Miss MCGINTY. Yes. There were other Governors that were consulted generally about western lands issues that we had been engaged in with the Congress throughout the 104th Congress and specifically with regard to the exercise of the Antiquities Act. There were several Members of Congress. I think Senator Reid has been mentioned as one. I spoke directly to Senator Reid.

I can respond more fully to the record, but, yes, there were Governors and Senators to whom we consulted with frequently on the issues and, frankly, the battles we found ourselves engaged in with the last Congress on western lands management issues.

Mr. CANNON. Did you consult with any Democrats within the State of Utah?

Miss MCGINTY. I can't recall right now that we did, sir.

Mr. CANNON. Let me say, Miss McGinty, I was a little surprised in your direct statement to this group—you said that Utah officials were—this matter was discussed with Utah officials before it was done. Which Utah officials, Republican or Democrat, did you talk to in advance of this proclamation?

Miss MCGINTY. Sir, the Governor of Utah, the State's Senators, Congressman Bill Orton, and I think probably other members of the Utah Delegation as well.

Mr. CANNON. So you are suggesting that it was a matter of consultation for the President to discuss this with the Governor of Utah at 1:58 a.m. on the date of the proclamation itself?

Miss MCGINTY. That conversation was preceded by other conversations that senior members of the President's staff had had with the Governor and others, and I think as the President's proclamation reflects, he understood the priorities that had been expressed by the Governor and the delegation members. That proclamation itemizes those and accepts the recommendations that had been made to him in many, if not most, respects.

Mr. CANNON. Were any outside groups consulted with before September 7, and whom would those groups have been?

Miss MCGINTY. There were no outside groups that were consulted other than what we just discussed here. There were several Governors whom we did call. There were——

Mr. CANNON. OK. There were some references to the Sierra Club in some of your documents. Were they consulted?

Miss MCGINTY. The Sierra Club was not consulted with regard to whether the President should establish a national monument.

Mr. CANNON. Were they consulted about the plans for the proclamation?

Miss MCGINTY. After the story appeared in the Washington Post, as I have said, every group—many people with many different perspectives were consulted, and we discussed the issue thoroughly with many different people at that point.

Mr. CANNON. Mr. Chairman, I see my time has expired. I do have other questions if someone would like to yield.

Mr. HANSEN. I am sure we will have another round.

Mr. CANNON. Thank you.

Mr. HANSEN. The gentlelady from the Virgin Islands.

Ms. CHRISTIAN-GREEN. I have no questions at this time, Mr. Chairman.

Mr. HANSEN. Thank you. The gentleman from California, Mr. Pombo.

Mr. POMBO. Mr. Chairman, I know Mr. Cannon's interest in this, and I will yield my time to Mr. Cannon so he can continue with his questions.

Mr. HANSEN. The gentleman yields his time to the gentleman from Utah.

Mr. CANNON. Thank you, Mr. Pombo. Mr. Secretary, I have just gone through a series of questions with Miss McGinty. Would you mind laying out for us what you did and what your discussions were with people outside of the Administration prior to the article that was leaked to the Washington Post and then subsequent to that?

Secretary BABBITT. Sure. Prior to the article in the Washington Post, I did not discuss this with any environmental group, any private citizen of any kind period. One exception. I did—Charles Wilkins was retained by the Department to the extent that he was—you view him as a private citizen. I think I was at one meeting internally in the Department that Charles Wilkins was at. That is it. No discussion.

Subsequent to the article in the Washington Post, I don't think I ever discussed it with any environmental representative, even after that. Like Miss McGinty, I had some discussions with Members of Congress, some western Governors, Governor Leavitt, Senator Bennett, Senator Hatch, but I think that is it.

Mr. CANNON. Do either of you know who leaked the story to the Washington Post on September 7?

Secretary BABBITT. I do not.

Miss MCGINTY. I do not.

Mr. CANNON. Did either of you give instructions to any of your subordinates to leak that story?

Secretary BABBITT. I did not.

Miss MCGINTY. I did not.

Mr. CANNON. Miss McGinty, the popular press has reported that the story was leaked as a way to maintain momentum of this project. Are you familiar with that story?

Miss MCGINTY. I am not familiar with that story. No.

Mr. CANNON. Do you have an idea who it might have been who leaked that story?

Miss MCGINTY. No, I don't.

Mr. CANNON. I have a letter from Robert Redford to the President as of August 5. He apparently was aware of the details of the monument. How did he become aware of the details so early in the process? Do you have any idea?

Miss MCGINTY. To my knowledge, he was not aware of the details of the monument. The details of the monument had not been discussed with any environmental group or person with environmental interests such as Mr. Redford.

Mr. CANNON. This is a very long letter from Mr. Redford.

Miss MCGINTY. Yes. He focuses specifically on his concern about the Andalex Mine.

Mr. CANNON. He does talk about the Andalex Mine about public opinion. But, apparently, he——

Mr. HANSEN. You will find it on page four if you are looking for it, Congressman.

Mr. CANNON. Do you have that paragraph? Do you want to read that?

Mr. HANSEN. Whole page four—very aware of the monument—if you want to make an issue of it.

Mr. CANNON. It is clear from this document that he was aware of the monument. Are you telling us, Miss McGinty, that you don't have any idea of how he became aware of the issue?

Miss MCGINTY. I have no knowledge that he had any knowledge or would have been aware of the monument. No.

Mr. CANNON. I think the document was provided by your office, but you don't——

Miss MCGINTY. Yes. I am aware of the letter, but I am not aware of anything in it that either evidences his knowledge of the monument, or, more particularly, I am not aware that he had knowledge of the monument. I certainly did not discuss it with him.

Mr. CANNON. Mr. Babbitt, do you have any idea of how Robert Redford became aware of these issues?

Secretary BABBITT. Congressman, I have not seen the letter so I am not aware specifically of what it is you refer to. I think that, you know, it is clear that Redford was advocating strongly for protection of this area. He was in the press and in the public. I may have had a letter from him. I don't think so. But he was out there very publicly. I did receive a call from him the day—the night be-

fore the President's proclamation. He was wondering why he hadn't been invited.

Mr. CANNON. Did you invite him then?

Secretary BABBITT. I relayed—I think I probably told my staff to relay his request to whoever was organizing the—

Mr. CANNON. As I recall, he was one of the few Utahans actually at that hearing. Now, Mr. Babbitt, you are a lawyer. Isn't that correct? You are a lawyer, Mr. Babbitt. Is that not correct?

Secretary BABBITT. I am a recovering lawyer.

Mr. CANNON. But your name has actually been used in the context of a possible appointment to the Supreme Court?

Secretary BABBITT. That is correct.

Mr. CANNON. I would just want to know from you if you can make the distinction between the process that was used in coming up with the proclamation and the subsequent process that was used? You keep referring to the process working. I think the issue is that the process didn't work in advance, and now people in Utah are doing the best they can to live with what the President has done.

Secretary BABBITT. Well, Congressman, in the time preceding the President's proclamation, I spoke with the Governor about his concerns. Senator Bennett wrote me a letter asking specifically, as I recall, about water rights and about school sections. I personally met with the—invited the Utah Delegation to a Saturday discussion. I think Senator Hatch was there. Senator Bennett was there.

And all of these issues—valid existing rights, the Mining Act of 1872, the Mineral Leasing Act of 1920, grazing, hunting, the gathering of wood, water rights, private inholdings—were all raised and discussed by members of the Utah Delegation and the Governor.

And our response was clearly reflected most directly in the President's remarks at Grand Canyon. I have already described my conversation with the President in that regard and my role in drafting and revising his remarks directly in response to the issues that had been raised by Governor Leavitt and Senator Bennett notably.

Mr. CANNON. I recognize my time has expired. May I have one more question?

Mr. HANSEN. I will recognize you for 30 seconds.

Mr. CANNON. Did Mr. Redford call after 2:30 when the President apparently made his decision after discussion with the Governor, or was it earlier than 2:30?

Secretary BABBITT. When I took this call from Redford, I was in Knoxville, Tennessee. And it was about 5:30 p.m. in Knoxville. I was on my way to a TWA flight to St. Louis. That is why I remember the time.

Mr. HANSEN. The gentleman's time has expired. The gentleman from Minnesota is recognized for five minutes.

Mr. VENTO. Mr. Chairman, I make that letter part of the record, and I might note for the record that the answer was that there was not any mention of a national monument in that letter. So let us make it a part of the record. I also would make part of the record the President's proclamation, and the background material I think would be appropriate to make part of the record.

Mr. HANSEN. Let me state for the benefit of the gentleman that all of these documents previously by unanimous consent were made part of the record.

Mr. VENTO. Let me proceed here. You know, I am not really surprised. Of course, we had our own differences with decisions that were made in past years with regards to public lands in Utah.

One of the major decisions was the WSAs in Utah. In fact, as the Chairman knows, myself and other Members are on record writing to the then Reagan or Bush Administration because Director Bob Newford had not included—it was his decision not to include various areas in wilderness studies—some 22 million acres of BLM lands in Utah.

And they had only included a little less than two. And then through some appeal process, it was increased to three. So that really was the start of much of what is the controversy about what was going to receive conservation or consideration for designation in this area.

And so the issue here is that in the Antiquities Act that we are talking about, it doesn't require the President to, in fact, consult with me. Does it, Secretary Babbitt?

Secretary BABBITT. That is correct.

Mr. VENTO. Most of us on the committee are very jealous of the powers and prerogatives we have with regards to land designation. I think it goes without saying.

In fact, I think these committees that deal with the land designations have very jealously guarded and limited the amount of powers we extend to this Secretary and past Secretaries and other land managers. And I think that it is appropriate that in this one case there is this opportunity.

Now, Mr. Secretary, did you advise the President he was concerned about the wilderness lands in Utah, the polarization that existed there since the 1980's when the first studies were put forth and recommendations for WSAs which were very controversial? I wrote, many wrote saying, "This is inadequate. More should be studied. You study both sides of the river." And they weren't.

In other words, I think an element of political judgment was evident there. In fact, I think the President is elected, and he has an element of political judgment that takes place. It is part of most of the behavior that we exhibit around here.

And so I don't deny it. I just think that hopefully we can limit it so it doesn't dominate the entire issue with regards to these matters that are so important to Utah and to the Nation in terms of these lands. But the fact is did the President, Mr. Secretary, of other powers that he had would, in fact, accord the level of protection that this national monument designation provided? Did he have other powers that he could have exercised that would have afforded the protection of this 1.7—1.8 million acres of land?

Secretary BABBITT. Mr. Vento, the answer is yes. There are a variety of avenues under the Federal Land Policy and Management Act. The Secretary has withdrawal power under FLPMA and other Acts. And I think the important thing, once again, is contextual. This debate was really kind of coming to a, you know, sort of quite hot intensity.

I just remember, for example, that during the spring of 1996 we had had a lengthy discussion of Utah lands in the context of preparing the Omnibus Parks legislation. And it was, once again, you know, another context in which there were proposals floating around, some of them from—I am not sure whether I will credit Senator Bennett with a proposal or not. I know he was interested in Canyonlands, but I won't specific—I don't recall whether he had made a proposal. But, once again, that brought——

Senator BENNETT. We had conversations about Canyonlands and possibly changing the wording.

Mr. VENTO. Let me just refocus the question. In my judgment, Mr. Secretary, the President had no parallel power to protect this land under the Wilderness Study Areas action. Under withdrawal, I think it would be challenged.

I think that there is no way available other than through the legislative process, and so, in fact, that legislative process, as has been indicated here, broke down. It was extremely polarized for a variety of reasons, not least of which was the initial areas even considered for study—just briefly.

Mr. HANSEN. Don't you think, Mr. Vento, that the FLPMA Act has more power for protection than the Antiquities Law?

Mr. VENTO. Well, it has some. I would say were there any ACECs that were designated under this? Were there any conservation areas that were designated?

Mr. HANSEN. I submit that the FLPMA Act is much more powerful than the Monument Act. In fact, if I recall the Monument, they stripped many of the powers that were there in the 1976 FLPMA Act, and we have done a pretty exhaustive investigation into that.

Mr. VENTO. Does, Mr. Secretary—maybe it would be helpful——

Secretary BABBITT. Well, Mr. Vento, I guess what you are searching for is the monument withdrawal power under the Antiquities Act in many ways is the most flexible of all of these powers the President has. I mean, it seems to me implicit in some of these suggestions is that other land management measures could have been taken.

Well, the answer is yes. But it seems to me that from the standpoint of many of the affected stakeholders, the monument withdrawal process, in fact, leaves more flexibility to engage upon the kind of management planning process than any of the other alternatives.

Mr. HANSEN. The time of the gentleman has expired. I will move to the—exercise one thing and say—well, never mind. The gentlelady from Idaho.

Mrs. CHENOWETH. Thank you, Mr. Chairman. Mr. Babbitt, I wanted to ask you, apparently you had a conversation with the President about the set-aside of this land, the entire monument, as it is referred to, and the mine on July 4. Right?

Secretary BABBITT. That is correct.

Mrs. CHENOWETH. Now, let me ask you how aware of the pending declaration by the President under the Antiquities Act were you, and were you personally involved on a day-to-day basis or a day-to-week basis—personally involved in seeing that this moved forward between July 4 and your telephone call at 2:30 in the morning in Las Vegas? How involved were you?

Secretary BABBITT. The answer is I was not personally involved, and I explained in my response to Congressman Hefley the reason for that. After I discussed it with the President on the way to Petuxan on the Fourth of July, I subsequently had a conversation with the Department's Solicitor, John Leshy.

And I said to him, "This is a power which resides in the President of the United States. It does not reside in the Secretary of the Interior. And, therefore, you should respond to the White House, and you should prepare whatever documents or information requests that the White House asks of you." And that is pretty much the extent of my involvement——

Mrs. CHENOWETH. Thank you.

Secretary BABBITT. [continuing]—until I was awakened in Las Vegas about the proclamation.

Mrs. CHENOWETH. Thank you, Mr. Secretary. Miss McGinty, then were you the driving force behind all of the coordination that took place in order to put this through?

Miss MCGINTY. As I said, Congressman, I relayed the President's request to Solicitor Leshy on July 3, I believe in my office, that request then catalyzed an effort on the part of the experts at the Department of Interior to undertake what is a scientific and technical legal analysis pursuant to the Antiquities Act to see if, as the President had asked, there are lands in southern Utah that would meet the criteria outlined in the Antiquities Act for protection.

Having relayed that request, the Department undertook that analysis. As I said, that is a technical and detailed and involved analysis. The request came back or the recommendations rather came back to the White House I believe sometime in mid-August.

Secretary BABBITT. Mrs. Chenoweth, if I might, I would like to add just one more thing. I did get engaged in this process in response to Senator Bennett's first phone call to me. He and the Governor both called me, I would guess about 10 days before the proclamation. And that was really my reentry point into this issue, and I did, in fact, as I previously stated, talked to the Governor.

The Governor and Senator Bennett I think both very accurately recapitulated my discussions with them. I did host a meeting of the delegation, and, obviously, I talked with Miss McGinty and the White House people in connection with our discussions with the Utah Delegation on that weekend.

Mrs. CHENOWETH. Thank you, Mr. Secretary. I am very pleased that the gentleman from Minnesota brought up again the Robert Redford letter, and we did hear from Miss McGinty that the letter does not mention the mine or the monument. But let me read from the letter that has been entered into the record.

"If we develop this mine, Utah tax dollars will be necessary. There will be related subsidies." It goes on to say, "Surely we need to grow and prosper, but economically and environmentally this mine doesn't make sense. This is a boom and bust waiting to happen, and once Andalex takes out every natural resource possible, they will walk away." This letter, by the way, was written by Robert Redford August 5.

It goes on to say, "Mr. President," on page four, "I sincerely believe that when the story of this mine is told, the majority of Americans will be against it, and I think the polling numbers and edi-

torials' support against the so-called Utah Wilderness bill support this belief." He had in the previous page talked about the fact that there are markets in the Pacific Rim—Japan, Korea, and Taiwan—and, indeed, we know that because another country has picked up those markets.

He goes on to say, "I strongly feel that we find ourselves in a historic window of time to do something bold, and I am convinced you will have the American people behind you." Indeed, this letter certainly does lay out that there was prior knowledge, not by our Utah Delegation, but by other environmental interest groups. I am saddened by this.

When this discussion opened up, we heard a lot of talk about civility, and so I looked up what civility means. It goes back, of course, to the word civil, and it means, "Pertaining or appropriate to a member of a civitas or free political community natural or proper to a citizen; also relating to the community and government of the citizens and subjects of the State." It didn't happen here.

Mr. Chairman, I have to ask you what was civil about this action? We sit here in this room, and we talk in round, civil, pear-shape tones about what happened in the West. We have heard prevarications—I guess that is a civil way to say it—from the White House with regards to this very outstanding Senator that is sitting with us. They deny that he didn't have prior knowledge.

Mr. Chairman, I am saddened, saddened by this, and I really hope that the words that were uttered by Governor Leavitt when he said, "It may be too late for Utah, but I hope it is not too late for other States"—well, indeed, Mr. Chairman, I hope it isn't too late for other States. But, indeed, I hope it is not too late for Utah because surely I hope that we can reverse this stand. Thank you.

Mr. HANSEN. Thank you. The time of the gentlelady has expired. The gentleman from Michigan, Mr. Kildee.

Mr. KILDEE. Just a comment. I think some of us on this committee experienced a similar action—reaction back in 1978 when then President Carter exercised the Antiquities Act on the Alaska lands. Then in 1980, I think just before he left office, Congress passed legislation on the Alaska lands, which the President signed into law. So it has been used before.

I know it is not without controversy. It was very controversial then too when the President exercised his authority. It is the law. I think it is very important that Congress does have oversight on this. The President does have that power, and we should look at whatever anyone in government does including the President. But I do think that basically the Alaska lands preserved were very important. I think basically the lands preserved in Utah are very important to the entire nation. But I do think that these hearings can be useful. Thank you, Mr. Chairman.

Mr. HANSEN. To the gentleman from Michigan, it is interesting to note that Alaska is now excluded from the Antiquities Law, as Wyoming is. Is that correct, Mr. Secretary? I think there are two that are excluded—those two?

Secretary BABBITT. Yes.

Mr. HANSEN. Senator Bennett.

Senator BENNETT. Thank you, Mr. Chairman. I appreciate the courtesy of the committee in allowing me to participate here. We

will have another shot at this on the Senate side when we get into discussions of my bill over there where I seek to take the statements the President made—I now discover this morning, Mr. Secretary, as a result of your input—and write them into legislative language. And I will be very interested to hear the Administration's position on my bill to see if, indeed, the Administration does want to preserve those promises that we were given.

I want to repeat what I said in my opening statement which is this is all very interesting historical stuff, and I think the case has pretty firmly been made that appropriate consultation and process was not followed. But that is behind us.

The real issue is what are we left with as a result of the way this thing was done, and we are left with an area that, to quote Miss McGinty, the President was determined that, "wilderness protection not be taken away from these lands," that has now been made a national monument in which roads will be built, visitor centers will be established, and to which millions of tourists will be attracted unless it is the intention of the Department of Interior to administer it in a way other than a national monument traditionally has been administered. If that is the case, I think we ought to know about it. This hearing probably is not the place to pursue that, but I am putting both of them on notice that that is an issue that we are going to pursue.

We know that one of the major issues relating to this land, which is Utah school trust lands, was an issue that Mr. Panetta had never heard of less than 24 hours before the announcement was made. And he had to explain to the President in the middle of the night causing the President to call the Secretary of Interior at two o'clock in the morning in Las Vegas, and then say, "Can you get some language to me?"

Now, I am sorry, Miss McGinty. In my opinion, that does not constitute considering fully every aspect of this. That has every aspect to me of a late minute, midnight, cover-your-tail, move quickly. We do, indeed, as the Governor said, have the invitations out, the ceremony is set, and now all of a sudden at the last possible minute when we had to accommodate the Governor by giving him an opportunity for a conversation, he raised an issue we didn't even know about—an issue that the Chief of Staff of the White House had never heard of less than 24 hours before the announcement is made.

I have every respect for Bruce Babbitt's ability as a lawyer. If I ever get in trouble in an area where he has any background or expertise, I would be more than happy to call him and consult him and pay him whatever fancy fee he might want to charge me.

But I would ask him to spend a little more time than from two o'clock in the morning to an opportunity to talk to the President at the Grand Canyon later that same day. Good as you are, Mr. Secretary, I think you need a little more time to collect your thoughts before you come forward with something like this.

I am convinced, and this I will end on and let you comment on—I am convinced that all of the consultation that we have heard about here this morning with the Governor or with me or with Senator Hatch or anybody else would not have taken place if the leak hadn't occurred in the Washington Post.

I initiated the phone call to the Secretary of Interior because of the leak in the Washington Post. The Governor initiated the call to the White House because of the leak in the Washington Post.

And when I go back to the statements that I read in my opening statement about, "Confidentiality is absolutely certain. If this gets out, it won't happen. Don't tell anybody," et cetera, et cetera, I am convinced that none of the things that we are now being told constituted appropriate process which occurred in the most hurried-up, crammed-into-the-last–12-hours kind of circumstance. Not even that would have happened if there had not been a leak into the Washington Post. I would appreciate your comments.

Miss MCGINTY. Thank you, Mr. Chairman. To go back through some of the points, Senator, that you have made, first of all, in terms of whether or not wilderness will be respected here, the President is going to respect the views of the State and local officials who are now part of this very public planning process over the next three years to answer those very questions. I would not want to prejudge what the answers to those questions are going to be.

I would note, however, that there is nothing in a national monument declaration which would preclude wilderness designation. In fact, what we need in that regard is to be able to restart the wilderness inventory process that has been held up, unfortunately, by litigation.

Senator BENNETT. May I comment that the designation of wilderness is a congressional prerogative even in national monuments. The Secretary has said that to me continually. As we have discussed these issues, he has said right from the beginning when he first came to call on me prior to his confirmation that wilderness designation is a congressional issue.

And he told me, "I am not going to get into it. I am going to let the Congress take care of that." So you are absolutely right. Wilderness is not incompatible with a monument status, but wilderness, even in a monument, requires congressional action.

Miss MCGINTY. That is absolutely true, that the Congress acts either to confirm or not confirm the Department's prior determination that areas should be treated as Wilderness Study Areas and managed as wilderness. They are managed as wilderness unless the Congress acts to remove that wilderness protection, which, of course, was the problem at issue in the 104th Congress with the bills that were pending, that that wilderness protection was to be removed from those lands.

Second of all, in terms of the school lands, the President shares the concern that you rightly have articulated about the education, the well-being of the students in Utah. His concern, however, is not about the monument declaration per se, but his understanding gained in the course of considering that declaration that these lands had not produced for school children as may have been hoped for and anticipated at the time of statehood, as had been the experience in Arizona.

That is why he went above the proclamation per se to direct that the process be undertaken to exchange those lands. He also was aware because he signed into law the 1993 legislation supported by the Utah Delegation that was evidence of the fact that the schools had not produced and that, in fact, they should be—the school

lands had not been producing and that, in fact, they should be exchanged out so that there could be revenues generated for the further support of the educational system.

Mr. HANSEN. The time of the Senator has expired. Mr. Hill, the gentleman and member of the Subcommittee from Montana is recognized for five minutes.

Mr. HILL. Mr. Chairman, thank you very much. It seems to me that the debate here really is about whether we ought to change the Antiquities Law, and what the issue really is is about values, but the value really isn't stewardship.

The values here are whether or not we should diminish, as you have in this process, the scientific process, the open and public process, and a participatory process, and then elevate values such as secrecy, partisan politics, and a narrowing of the process.

And in that light, I would just like to ask you—and the argument here has been whether the Utah Delegation should have had anticipated the action on the part of the President. So I just want to go on the record, is there any exploration going on, are there any discussions going on, is there any analysis going on that might lead to a similar action regarding any public lands in Montana at this time?

Secretary BABBITT. No.

Mr. HILL. Thank you. It is my understanding that you are currently discussing something called Parks II—Parks Plan II. Is there any anticipated executive action regarding designating public lands in that process going on between the Council on Environmental Quality and the Department of Interior that we might need to anticipate that might lead to this kind of a conclusion?

Secretary BABBITT. Congressman, national parks can be established only by the United States Congress.

Mr. HILL. I don't think that quite answered my question.

Secretary BABBITT. The answer then is no.

Mr. HILL. OK. Thank you. We had a similar situation, as you know, occur with regard to the New World Mine in Montana occurring in a similar timeframe—similar action on the part of the President. And in that particular process what occurred was that we were going through the development of an environmental impact statement.

And it appears as though a decision was made—and we will be having some hearings on this shortly—but it appears as though a decision was made to short-circuit the environmental impact statement. And there seems to be some potential similarity in this incident where an environmental impact statement was in the process.

So my question is where do you make the decision in the Administration to throw out the NEPA process, the process of including an environmental impact statement, and then substituting that with what I would consider or characterize as a political process? And what values do you use in making that decision?

Miss MCGINTY. Congressman, first of all, in terms of the New World Mine issue, that issue I think represents better than almost any other exactly the philosophy that certainly this Congress has expressed with regard to natural resource management issues, and that is where polarization and litigation can be avoided, where there is a partnership that can be crafted between private industry,

environmentalists, the Federal Government—we ought to work toward that end. That is the full story behind the New World Mine issue.

Mr. HILL. But there is a similarity here in that the Governor of Montana wasn't consulted in the process of making the decision of the New World Mine, as Governor Leavitt was not consulted in Utah. An environmental impact statement was interrupted in Utah as in Montana. The congressional delegation in Montana wasn't consulted, as it wasn't in Utah. Local government units weren't consulted.

And, incidentally, there is another similarity, and that is that we were promised that Montanans would have some input in the process of concluding the New World Mine purchase. And you might recall, I am sure, that there was a Montana initiative led by the Governor, encouraged by your organization and I believe the Department of Interior.

I participated in those meetings, as did representatives of the entire congressional delegation, the Governor's Office, local government units, all the public land management agencies, and not one item that was proposed in the Montana initiative was incorporated into your final proposal. Is that what the people of Utah can expect now as we go through this three-year process?

Miss MCGINTY. Congressman, as you might know, the Governor himself has not reinitiated those discussions under the initiative, although we supported them heavily, including with resources to develop the ideas that were discussed there.

The reason for that was, for example, small timber companies were opposed to parts of that initiative. Indian tribes were opposed to parts of that initiative. We remain willing and eager to have those discussions with the Governor to the extent he wants to reinitiate them, but it is not his proclivity right now to do so.

And with regard to the matter of the environmental impact statement, there is a similarity between the Yellowstone issue and this issue. In both respects, an EIS is started because there is either a Federal agency that is undertaking an action or a private party that is pursuing a lease or a permit to do something on Federal lands.

To the extent that private party decides they are no longer interested in doing that and cancels their request, withdraws from the EIS, that is that private party's determination. That is what has happened in both the Yellowstone case and in this case as well.

Mr. HILL. But that was part of the agreement that you entered into with an environmental group and the mining company to exchange value. In other words, that was an enticement for them to enter into that agreement. Isn't that correct?

Miss MCGINTY. This was part of the partnership that was formed that ended and avoided potential years of litigation around this issue. That is right. And it is a part that is actually very important to the company. It is in the company's interest to ensure that that EIS is on hold right now as the rest of the agreement gets put together. That is something that has been and continues to be very important to them.

Mr. HILL. If I might, just one last question, could you explain to me why that is in their interest, that the EIS be put on hold?

Miss MCGINTY. Because in the event that the overall agreement—if there is any reason that other parts of it don't work out—if there is any reason that other avenues have to be pursued, they do not want the integrity of that EIS in any way jeopardized. So while other avenues are being pursued, they would like that EIS just held harmless during this period of time.

Mr. HANSEN. The time of the gentleman has expired. The gentlelady from Wyoming and a member of the full committee is recognized for five minutes.

Mrs. CUBIN. Thank you, Mr. Chairman. I came here today hoping that I would be less confused, and I think maybe throughout the hearing I have. And I think what is happening is we are talking about different things.

Before I came, I guess there was some talk about trust and how to open the process, how to be civil to one another. And I have specific questions about the oil and gas leases that are currently producing in that area and other leases that have been let there. But I am going to submit those in writing to you, if you wouldn't mind, so that I could just have a quick discussion about how are we going to get there from here.

It seems to me that throughout my career in politics there have been many times where I have not liked the decision that the Department of Interior came up with on some land use plan. I didn't like that, but that is their decision to make. My job is to protect the process. My job is to make sure that my constituents, my State, and my country are protected by the process.

It appears to me that in this case that you didn't like the process and so took an exuberant step—you, the Administration—took a giant step to short-circuit FLPMA, NEPA, all of those things. And I think the fact that there is producing oil and gas leases in that area that apparently you didn't know about before it was done because that is what all the papers indicate, I think that demonstrates the flaw in what has happened here—why we have the processes that we do have.

This is for you, Katie. I have this written down as a quote, ''The ultimate use of the land.'' You have said that several times, you know, and it seems to me that that seems—the ultimate use of the land seems to be the priority with you, that the ultimate use of the land, however we get there, that is the most important thing. Do you think that is a correct assessment?

Miss MCGINTY. Well, the thing that is very important to us——

Mrs. CUBIN. I know. I mean, I just want—I am trying to get us to talk about the same thing.

Miss MCGINTY. Yes.

Mrs. CUBIN. We are not. We are asking you questions about the process, and you guys are defending the result and what we are doing now. But we have to go back in order to get our hands around this so that we can work together.

Goodness. We have to work on ground food. We have to work on the redwood trees. We have so many things we have to work together on. If we don't talk about the same thing, we are never going to arrive. So I want to talk about the process, the process that we feel has been exaggerated, not the result, because that is your job. But my job is to defend and protect the process.

Miss MCGINTY. Precisely. And I wanted to speak to the process, and I appreciate that. The importance for us right now is also the process. As the Secretary has outlined, the process that is engaged right now that is being conducted fully pursuant to NEPA and FLPMA——

Mrs. CUBIN. But, see, Katie, that is not what we feel has been violated. The violation we feel goes back to noncommunication and nonconference in the beginning. Now, if we can't talk about, ''Do you have any second thoughts about that? Do you have any reservations? If you could do it over, would you do it differently?'' because what—it can be guaranteed us—anytime a process is violated, you can be guaranteed two things: number 1, it is going to happen again. One side or the other is going to violate that process or take advantage of it—let me say that instead of violation—take advantage of it. And you can also guarantee if changes aren't made, that both sides are going to be abused in the future because it is now political, not a process that is good for the country or the land or whatever.

Miss MCGINTY. Yes. And, Congresswoman, as I articulated at the outset in my oral statement, I do respect—I understand that many people have different views about the designation itself and the process that led to it.

Mrs. CUBIN. That is not the subject of this hearing. The process is but I don't see—well, I guess if we just can't talk about—I had the feeling that maybe we weren't trying to talk about the same things because the answers that are coming are not to the questions that we are giving.

I am not here to criticize the ultimate use of the land. I am only here to try to figure out how you as an Administration, we as a Congress can start talking about the same thing, the process; what is the process that should rightfully be followed. Do you see any errors that were made? Can you just say yes or no, both of you?

Don't you think it would have been better before the story was leaked to have talked to somebody in Utah about this? Did you make any mistakes? I mean, I am so frustrated because all I see is defense of the ultimate use of the land, and I think through Adolf Hitler we learned that the end does not justify the means.

Miss MCGINTY. Congresswoman, before the story leaked, no, we were still very much wrestling with this internally. As I said, the President had not made any decision at all, and we had no inclination at that time whether it was with folks in Utah or anywhere else to start having a broad discussion of this. It was still very much under discussion just internally.

Mrs. CUBIN. Well, Katie, then you accept the NEPA process and the FLPMA process, environmental impact statements, environmental assessment as something that needs to be done for the good of this country, for the good of the public land. Is that only when other people have to do it? Is that only when you at the CEQ don't have to do it or when the President doesn't have to? Is it good for everybody else all the rest of the time?

Miss MCGINTY. Congresswoman, I——

Mrs. CUBIN. You didn't go through any of that.

Miss MCGINTY. I think that there are some areas, and they are limited areas, but some areas where the President of the United

States needs the authority to be able to act unilaterally on behalf of the interests of the American people.

Mrs. CUBIN. Mr. Chairman, one last statement.

Mr. HANSEN. One last statement.

Mrs. CUBIN. Yes. And I agree with you. I agree with you on that very much. But as Mr. Hansen stated, no one has won here. No one has won here because there will be a change to the Antiquities Act if it doesn't come in this Congress or the next one. There will be a change. The President's power will be limited. The Congress will have to do something because in overexuberance and abuse, the people were not protected. And so nobody wins.

Mr. HANSEN. If I may say, I can see the frustration in the gentlelady from Wyoming and the gentleman from Montana. That is the reason for the bill that supposedly is in front of us, but we couldn't recognize it very well, and that is to amend the Antiquities Law. I would daresay in the benefit of Democrats and Republicans, we will lose the Antiquities Law along the line if we don't amend it somewhere.

I think the President, and I agree with you, should have some rights to work within that. We are just trying to soften it because of the NEPA law, the FLPMA Act, and others that have done that. Excuse me for pontificating for a minute. The gentleman from the Second District of Utah, Mr. Cook, is recognized for five minutes.

Mr. COOK. Thank you, Mr. Chairman. I would like to ask a few questions about where we go from here. Obviously, within the 1.7 million acres that are included within the monument designation, there are, I think in the opinion of most people, acres that are certainly more worthy and acres that are less worthy of either monument designation or possible wilderness designation.

I guess what I am asking about is during this three year public planning process that we are six months into, is there any realistic chance that the total number of acres in this monument could be revised, could be scaled back? Is that a possibility that is being looked at or could be looked at?

Secretary BABBITT. Congressman, I do not contemplate that. I believe the most productive way to proceed from here is to utilize the process, the flexibility, the blank slate that I have talked about, and say there are the corners of the slate that is on the wall.

Now, rather than getting into a contentious argument about the size of the blackboard, let us talk about what goes on and recognize the enormous flexibility to say, for example, the high areas of the monument should have the following management prescription, the existing roads should be dealt with as follows, our riparian areas should be dealt with in another way, or perhaps the areas adjacent or closest to communities should have another management prescription. Those are things that can all be done within the frame of the blackboard on the wall.

Mr. COOK. Well, Mr. Secretary, I was impressed with your comment when you were talking about the blank slate that nothing is totally decided. There are still lots of multiple use issues that can be resolved. There are still lots of property right issues. But you did say that mineral extraction opportunities are totally dead.

And on that, I have got to ask you, why is that so if lands adjacent to those may not be as worthy in terms of these designations?

Or if there is, in fact, existing right. Doesn't that fly in the face of your indication that property rights are still out there to be upheld and worked out during this three-year process?

Secretary BABBITT. Congressman, first, the proclamation does not affect valid existing rights. Now, that applies to the monument withdrawal. It does not apply to private land. It does not affect valid existing rights as they are defined under the Mining Law of 1872, and a variant of that as lease rights are established pursuant to the Mineral Leasing Act of 1920 because that is hydrocarbons and coal.

You have got two different sets of statutes that affect the mining and mineral extraction issues. The one decision that the President made in this proclamation is that there will be no further mineral entry under the Mining Law of 1872. And I think as a practical matter, the same applies to the Mineral Leasing Act of 1920. That is certainly the contemplation.

Mr. COOK. Secretary Babbitt, as someone who has lived in Utah basically all his life, someone who, as both a businessman and as a citizen, wants to see economic opportunities and better jobs, but who really does care a lot about the environment of the State of Utah, and who celebrates the national parks and the wonderful beauty and spectacular aspects of the State, why can't we have both?

Why can't we have a reasonable monument set aside and also mining opportunities and economic development? This is a presidential decree that really doesn't seem to have a basis in terms of this mining question or in terms of any of the studies or any of the consultations.

I am just wondering, why can't we have both and have win-wins and have the people of Utah celebrating this monument if we can still have some economic development in that area?

And, specifically, would you address the Andalex Mine issue, because I think there is a feeling among many members of this panel, of which, of course, I am not a member that the decision was strictly to stop the Andalex coal operation. It doesn't really have a whole lot of reasons other than that. If you could just kind of describe that.

And because my time will run out, I just want to quickly ask you why would you oppose an amendment. You gave a very impassioned statement about the Antiquities Act and why that needs to be preserved. But why would you oppose just a single amendment that would require a 90 day consultation period with the Governor, with the citizens of the State before it was implemented on a new project?

Secretary BABBITT. Congressman, there are many strands to that question. Let me see if I can——

Mr. COOK. I didn't mean to——

Secretary BABBITT. [continuing]—address them one by one. It is my personal and deeply held belief that the Antiquities Act is a really extraordinary environmental law that has worked and demonstrated, perhaps more than any other piece of legislation that has been passed in the 20th century, redounded to the benefit of the American people. And I simply oppose an amendment to that law. It has worked for 91 years.

Now, with respect to your question about mining, the President in his statement at the Grand Canyon I thought put it pretty well. He said, "Yes, we should have an encouraged mining, but not mining anywhere." And implicit in the withdrawal for this monument is a decision that mining is incompatible with the other value that the proclamation seeks to protect.

Now, implicit in that also I think is that there are other places in Utah to mine coal. Coal is not a scarce commodity in the United States of America. The USGS, for example, has vicariously estimated that we have as much as a 500-year supply of minable coal in this country.

Now, I realize and appreciate your question that that—you know not—you know, if coal is in West Virginia, that is not much of an answer to the people of Utah. And that is the reason that in the case of the Pacific Core leases and others we have said we believe that it is appropriate to exchange for other coal lands in Utah. That is the offer that has been made to Andalex, and we will just have to see how that plays out.

Now, let me last say that I have followed for decades the discussion about the existence of coal reserves in the Kaiparowits region. There is no question the coal is there. There is also gold in the ocean. The reason we don't mine gold from the ocean is because it is not economical to do so.

And the verdict on the Kaiparowits coal deposits for half a century has been that it is not an economic deposit. And it is my belief that out of this we may, in fact, get the kind of win-win that I think you are so eager to find if, in fact, we can swap those into areas of demonstrated economic potential within the State of Utah.

Mr. HANSEN. The time of the gentleman has expired. Our ranks are dwindling, which is understandable. We will go one quick other round with this group, and then we have two more panels. I am sure they won't be quite as long, but we will quickly try and go through this round.

Let me just say if I may that there has been a lot of things said that this has been studied for years and years. It hasn't been studied as a monument. The whole State of Utah, the entire West has been studied. I have sat on this committee for 17 years. I have chaired it for two terms. I was ranking member for three terms.

There has never been a word said about a monument in this particular area so let us get that cleared up. I wish the gentleman from Minnesota was here. We have never studied the Kaiparowits Plateau for a monument ever. It has never been done. Is that clear enough for everyone? It hasn't happened.

Miss McGinty, you also state in your September 9 memo that the political purpose of the Utah event is to show distinctly the President's willingness to use his office to protect the environment. And, of course, I maintain that it is protected better under the FLPMA Act, but I guess that is a matter we can discuss for a long time.

At the end of the memo you state that, "This step reducing or eliminating the risk of coal mining on the Kaiparowits would represent an immense victory in the eyes of environmental groups. And based on the editorials written on the subject during the Utah Wilderness bill debate would be widely hailed in the media."

I would surely hope, and no disrespect to you folks—I am of a different political persuasion—but I would surely hope we don't formulate the Administration's environmental policy by making political hay. I would hope we do what is right for America and not for photo opportunities or to please some environmental groups, which you had probably 100 percent anyway.

Miss McGinty, you go on to state, "There is very little current human use of the area proposed for monument designation, and with the exception of the proposed coal mine, current and anticipated use are generally compatible with protection of the area."

I don't know how you come to that conclusion. Does that mean that the oil well proposed by Conoco is compatible use? I guess it does. That is the only conclusion I can draw. And how about all the other oil and gas leases in the monument?

And as the Secretary has alluded to, and I don't want to take issue with him, but on the other side of the coin, as you look at the area, and I am very familiar with the area, I seriously doubt of any of the testimonies here anyone has been to Smoky Hollow and understand how remote that area is, how barren it is, how deserted it is.

And do you realize that the Andalex, and I am not anywhere an apologist for those folks, but it would take 40 acres to be reclaimed—40 acres. What is that? A fraction of what has been put into the particular area.

Miss McGinty, your memo states that, "The coal developments on the Kaiparowits would damage the natural value of the entire area." This is an area as big as Delaware, New Jersey, and given the fact, how do you possibly say that 40 acres would damage an entire area, and it is on the far south end of the area. And, you know, I just have a very hard time with that.

President Carter used to say, "Coal is our ace in the hole," and when he said that back in his Administration, a Democratic President, he said, "Out in the hills of Utah we have got enough coal to offset all the problems we are having out of Saudi Arabia and that area." And so Senator Bennett brought out one time we were going to use that for coal fire generating plants, and now we say we don't want to use it. Can you give me an illustration of any President—any President designating one of the 73 monuments who did it the same way?

Miss MCGINTY. Well, if I might, Mr. Chairman, respond also to some of the other——

Mr. HANSEN. Sure, sure, please. I am sorry. I didn't mean to cut you off.

Miss MCGINTY. [continuing]—items that were important that you had raised? First of all, in terms of the memo that you reference, I am not sure that I have the exact memo before me, but I would say that while I may have articulated what the view of the environmental community might be, it is my practice always to present to the President the views of the varied constituencies on an issue.

And I would suppose and assume that I might also have outlined there the views that I anticipated would have been expressed by the Utah Delegation, for example, and maybe other western States. It is not the case that there, obviously, would have been unanimity of opinion on this issue.

With regard to the mining issues, there again you raise several points. The environmental impact has several parts. One is the point that you have highlighted and emphasized, the actual footprint perhaps of the mine itself, which you identify is on the order of 40 acres.

But there is the question of the ancillary impacts such as roads, for example, in this very remote area, as you say, that would have to be put in to access this mine. In fact, the proposal was that roads would have to go clear through to California——

Mr. HANSEN. Excuse me for interrupting you, but we have checked that road out. I have been on it three or four times. What resource would that impact? Could you tell me that?

Miss MCGINTY. I have also been on that road and am still recovering from the jarring——

Mr. HANSEN. It is a stretch to call it a road. I agree with that.

Miss MCGINTY. Yes, it is a stretch. Thank you. So there would have to be fairly significant development to make that road suitable to haul in the volumes and out the volumes that we are talking about. But if I might respond to the other points—the very important points you had raised previously, the road, as I said, would extend clear through to California.

Now, that is important because pursuant to the company's proposal, this coal—contrary to what President Carter may have said about having coal domestically to meet our energy resources—this coal was proposed to be shipped to the Far East for our competitors' use there, not for domestic energy consumption.

But let me just reiterate, however, that the Andalex Mining Company's valid existing rights are not affected by this proclamation. And I would say to give the company their due, that as I understand it, there are very productive discussions underway right now with the Department of Interior on that with regard to those issues.

Mr. HANSEN. The gentleman from American Samoa.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. Going through the provisions of the presidential proclamation that was issued on September 18 of last year, clearly stating within the province of the fact that the President does have the authority quite clearly under the provisions of the Antiquities Act of 1906, I want to ask Secretary Babbitt the fact that the President has directed him that within this three-year process that some kind of a management plan is to be implemented or provided for in the interest of seeing how this proclamation is to be fulfilled.

And I wanted to ask if perhaps—the concern that I am sensing here is that simply I think the good members of the congressional delegation from Utah seem to be left out of the whole picture. And I want to ask Secretary Babbitt if there is any intention on the part of the Administration that members of the Utah Delegation should be invited to participate and to have their honest input in the process? If I am wrong in that, I just wanted to ask if this is part of the process?

Secretary BABBITT. Congressman, it is our intention to create an unprecedented public Federal, State, and local partnership. Now, just one example of that, there is a widespread mailing, which is either—I think it is in the mail by now which will go out—which

is either in the mail or will go out—it will be followed by another one about 30 days from now—to all of the interested parties all over the country and, most importantly, in southern Utah to attend a series of public scoping meetings as the front end of the planning process.

And it seems to me it would be most appropriate to arrange any one of those scoping meetings as a forum convenient to all the members of the Utah Delegation to help shape the issues which should be the subject of the planning process.

Mr. FALEOMAVAEGA. Would it be helpful also, Secretary Babbitt, that maybe in the process to inform the members of this committee, or the Congress for that matter, to some kind of a time line in terms of not only the process hearings that will take place, but to kind of give us indicators along the line within this three year time period to kind of give us some benchmarks—where are we now; what do we need to do; do we need to do more; does Congress need to be involved; or do you believe that this can be done honestly within the province and the jurisdiction of the Administration only?

Secretary BABBITT. No. I would be happy to do that. We have some tentative guidelines under discussion now which would have the scoping process begin this summer which would translate through into a draft management plan probably about this time in 1998 with a series of guideposts along the way. And I would be happy to see if we could respond to the committee with an outline, if that is what you suggest, to what that might look like.

Mr. FALEOMAVAEGA. Thank you, Mr. Secretary. And, Mr. Chairman, I would like to request if, in fact, that perhaps some of the documentation that was referred to earlier by the good Senator from Utah, Mr. Bennett, if there are not duplications, they could also be made part of the record?

Mr. HANSEN. Thank you and they have been made part of the record. All the records that we presently have and we expect to get will be made part of the record.

Mr. FALEOMAVAEGA. And, Mr. Chairman, you know, it has been three and a half hours now that Miss McGinty and Secretary Babbitt has been under the line of questions that we have had, and I certainly do have some additional questions. But for the essence of time, we have two more panels coming up that I will submit my further questions to Miss McGinty and Secretary Babbitt at a later time. And I want to commend them both for being here this morning.

Mr. HANSEN. Thank you. The gentleman from Utah, Mr. Cannon, is recognized for five minutes.

Mr. CANNON. Thank you, Mr. Chairman. I have a statement to precede a couple of questions. The problem with the Antiquities Act as it was handled by this Administration in this case is that it has managed to make everyone that I know of unhappy, not only the Utah Delegation and people who were not spoken to in advance, but I was approached by a member of the Southern Utah Wilderness Alliance the other day who is deeply concerned about the fact that we are going to have hundreds of thousands, if not millions, of visitors to the area, and that those people will not be precluded from some of the environmentally sensitive areas.

And, in fact, with all due respect to the unprecedented public State and Federal planning process, these visitors are likely to create their own points of destination which may be highly inconsistent with what we would have planned had we had more time to do it.

You have talked somewhat about the President's concern for the school trust lands and the schools, Miss McGinty, but would both of you respond briefly? For these lands to be more productive, is that not going to take some sort of very large development on the ground somewhere?

Miss MCGINTY. Well, I think as the Secretary has outlined, part of the process here is following up on the precedent of the 1993 legislation which was aimed at trying to swap out State lands that weren't producing the kind of revenues that would go to the purposes you are speaking to.

Mr. CANNON. Pardon me. Even if we do successfully trade them out, and we have been trying for 30 years, for instance, in Arches—even we do trade those lands for other lands, is that not going to require some significant development on the ground for coal mining or oil and gas development or methane gas development?

Miss MCGINTY. I would assume that in the process of identifying the lands that the State would be interested in having their land swapped for that they would identify lands that were of economic value. I don't know if it would be those minerals or something else, but I would assume it would be economically valuable.

Mr. CANNON. And, therefore, some significant development?

Miss MCGINTY. Possibly——

Mr. CANNON. And, Mr. Babbitt, you are nodding. I take it you agree with that. Right? Let me just move on. Earlier in your statements, Mr. Babbitt, you talked about working with the counties, hoping to work with the counties, the fact that Kane County had entered into an agreement with the Department, and that you hoped that a similar agreement could be entered in with Garfield County?

Secretary BABBITT. Yes.

Mr. CANNON. And what kind of limitations do you expect on that agreement? Do you expect it to have the same kind of money that went to Kane County, for instance?

Secretary BABBITT. Yes. I think so. Yes.

Mr. CANNON. So that would be $200,000 and an additional $100,000 that is being talked about for each of the counties so an additional $200,000 for Garfield County and an additional $100,000 for each of the counties?

Secretary BABBITT. Yes. I think those estimates are in the ballpark, and that is why I think that the Budget Subcommittee discussions are going to be so important because that's the point on which the planning process and money intersect. And I think there are—you will hear from the county commissioners.

It seems to me there are a cluster of front-end issues that relate to adequacy, of planning, resources at the county level, and then a related issue about the resources necessary to do the people management that has been triggered by the declaration of the monument—search-and-rescue, law enforcement, and that kind of thing.

Mr. CANNON. Well, I appreciate and I understand that there is a commitment of that for Garfield County as well as what has already happened in Kane County.

Secretary BABBITT. Correct.

Mr. CANNON. They have some catching up to do. Thank you. Let me just encourage you in this regard. I have, of course, been arguing with some of your people—Jerry Meredith most recently—I thought Mrs. Docket was going to be there, but she was not able, I suppose—about the difference between controlling the money by the BLM and allowing the counties more latitude. I personally believe that the counties should be given about $500,000 each in advance that they can use this summer with broad discretion. Mr. Meredith believes that he can provide services better and cheaper.

The problem with this, and I hope that you will internally look at this in the Department, is that to the degree that the BLM is spending the money and controlling the money, the local citizens are going to be less involved. And I fear that you get to a point very quickly where the local citizens and the local counties have to say, ''We can't support search-and-rescue in these areas so we are instructing our sheriffs just to stay out of the monument because we don't have the resources.'' That, I think, would be tragic for people who I believe will end up getting lost in the monument. Just an admonition of philosophy about how we proceed.

Let me ask another couple of questions. The documents provided this committee referred to a Utah Parks Project Phase II. Could you please explain what that means? What areas would there be in the proposed park?

Miss MCGINTY. I am not familiar with the park proposal at all.

Secretary BABBITT. Congressman, I am not either. Let me suggest, if I may, I have not seen the document. I told Mr. Hill that there are no discussions, and that is, in fact, the case. It is possible that the meaning of that traces to the discussion that took place in the spring of 1996 in the context of the Omnibus Parks legislation and whether or not we could reach closure with the Utah Delegation on the kind of thing that Senator Bennett was interested in, which was, for example, some additions to Canyonlands National Park.

Now, it may be that the author of that memo is anticipating that Chairman Hansen is getting itchy to do another Omnibus Parks bill and that that might be the time to address the issues raised by Senator Bennett. I suggest that that is pure surmise because I have not had any such discussion.

Mr. CANNON. Thank you. I have several other questions. May I submit those to each of you for a response in writing? Thank you.

Mr. HANSEN. Thank you. The gentleman from New York, Mr. Hinchey, is recognized for five minutes.

Mr. HINCHEY. Well, thank you, Mr. Chairman, and I do mean thank you for holding this hearing. I think that it has been very instructive and very helpful, and a lot of good information has come forward, and that is very needed. I want to also thank the members of our panel for their patience and their responsiveness to the questions of the members of the committee.

The issue of the resources here have been brought up a number of times, and I think it is important to try to put that into perspec-

tive. The likelihood of mining taking place in Kaiparowits I think is fairly slim, given the realities of the present situation. As the Secretary I think has pointed out on a number of occasions in his testimony, the economic realities surrounding that possibility are such to almost preclude any likelihood of coal mining there in the relatively near future.

All the leaseholders, with the exception of two, have abandoned their leases. One is in the process of negotiating out of its particular lease. It is only Andalex that holds any lease whatsoever that is even remotely likely to be executed. That lease is in the context of a plan which would export coal to the Far East—mine it there and export it to the Far East.

First of all, you would have to build a 225-mile road into there which would be financed by the people of Utah. That would entail an expenditure of somewhere between 70 and $100 million which is something in the neighborhood of eight or nine times what all of the trust lands produce for schools, say, for example, on an annual basis right now—a very substantial expenditure.

And also there are other coal fields in Utah—Wasatch and Book Cliffs I think—that are in production right now that are producing substantial amounts of coal. And they could be used to export coal to that market if the need exists.

And, in fact, because of the geographic circumstances there, the coal from those mines have presently a $5 per ton advantage over any coal that would be mined by Andalex. So even the economics of this situation I think indicate that it is not likely that any mining is going to take place there at any point in the foreseeable future.

I know that the purpose of this hearing, of course, is to examine into the Antiquities Act to determine whether or not it needs amendment, whether it should be changed. And that, of course, is entirely within the context of this particular designation. I think it would be wrong to change an Act which has served the people of this country so well for nearly a century, which has been exercised by every President in this century except three, and which has been exercised very well.

And in this particular context, it is clear that the process is just beginning. There is a three-year process now by which public participation and a great many people are going to have the opportunity to express themselves on this issue. And it will be formulated in the context of that particular process.

So I think it would be premature to propose amending this Act based upon this particular circumstance. I support the Act as it is presently constituted, and I certainly support the President and what he has done here. I think he has done the people of Utah and the people of the country a great service in the designation of this national monument.

But let me ask you, Miss McGinty, suppose we had a change, suppose there was a circumstance where you had a 90-day delay or some other nature. What kind of problems might ensue from those changes which would make it difficult to preserve critical areas of the country in the future by future Presidents regardless of what party they might be?

And also isn't it true that assistants to Presidents when they are writing memos to the President might include in those memos certain political circumstances? I don't think that that is unheard of, and I venture to say that I recall in the past assistants to Republican Presidents writing memos that contained certain political considerations within them. It is not entirely unusual to do that, is it?

Miss MCGINTY. Every once in a while the President has some interest in what the political ramifications of an issue might be. Yes, that is correct. And I do try to provide that information to him.

To step back to the first part of your question, I think it is important to focus on it in the context of this discussion, as you rightly pointed our attention. Here what might have happened, these issues, as has been discussed, were the subject of intensive debate. The President was very concerned that first of all an Omnibus Parks bill that he, together with the Chairman here, had worked very hard on and had many provisions that were very important to us.

But that vehicle was being used, if you will forgive the expression, as the vehicle that had a poison pill, the poison pill being the President's expressed opposition to the Utah lands bill. Similarly, up until the very last day of the 104th Congress, there was an effort to try to put similar kinds of initiatives on the appropriations bill that was moving.

These are poison pills that tie the President's hands and I think underscore the importance, especially in an issue like this where it had been debated so extensively and where the President himself had put himself on record numerous times during the two-year Congress—the 104th Congress—that he then ultimately have the ability to act in the best interests of the people of the United States.

Mr. HANSEN. The time of the gentleman has expired. I may suggest to you that there would be a wonderful monument of the Ithica Gun Works in New York. One of the finest shotguns ever made was made in New York in Mr. Hinchey's district. Two million acres would about take care of it.

Mr. HINCHEY. Mr. Chairman, let me express my appreciation to you for noticing that, and I would encourage you, and as a matter of fact, maybe we should talk about a bill that we would put in for that particular purpose.

Mr. HANSEN. I am with you, brother. We will do it. The gentleman from Tennessee, Mr. Duncan.

Mr. DUNCAN. Mr. Chairman, I have no questions at this time since I have been gone so we can get to the other panels.

Mr. HANSEN. A member of the committee, Mr. Hill from Montana, is recognized for five minutes.

Mr. HILL. I would like to yield my time to Mr. Cannon again if he has more questions to ask.

Mr. CANNON. Thank you. There is a lot more to say and a lot more questions to ask, but I think I will submit most of my questions in writing.

Mr. HANSEN. The gentlelady from Wyoming, Mrs. Cubin.

Mrs. CUBIN. Thank you, Mr. Chairman. I am going to go back to some oil and gas issues. All of the documents—the question and answers that we received stated that there were no oil and gas

leases so there would be no loss of revenue due to the proclamation. And then they were corrected and said that there was no production so that there wouldn't be any loss of revenues.

And both of those statements turned out to be incorrect later because there is production there; in fact, $234,000 a year in rental payments, and half of those rental payments go to the State of Utah, as you know, as well as any royalties.

And I just wonder since coal is the only thing that has been discussed as far as not developing, what are the plans or are there any at this time about helping facilitate that coal production or, I mean, oil and gas production? I know you said everything is a blank slate, but are there any preliminary discussions about the oil and gas leases that are existing?

Secretary BABBITT. Mrs. Cubin, I think the most salient fact is that Conoco is preparing to drill a well on an inholding school section owned by the State of Utah. And it is my understanding that they are either underway or prepared to go very shortly. Conoco will tell you that it is a very long shot. They are drilling to the Precambrians on the theory that the Zenker and Chewer formations that you can see over in the Grand Canyon down toward the bottom are producing hydrocarbons which are migrating upward into stratigraphic traps.

It is really an imaginative theory. My own feeling is that when they have drilled and finished their well on the State section, we will have a lot more information about values, about quality of their geological hypotheses. Conoco also has a lease on some Federal land, and this poses the issue in a slightly different way.

They have filed with the BLM for a drilling permit, and that permit application will be passed upon by the BLM in their normal process by normal standards, including the values to be protected that are laid out in the present proclamation. They will make that decision, and we will have an answer in due course.

Mrs. CUBIN. Well, my main concern is—excuse me—are the existing leases—the leases that are there that are valid, and certainly we don't want to violate people's private property rights by not allowing that especially since it was never even—oil and gas production ever even referred to before the proclamation was made. And possibly the President didn't even know there was any oil and gas production in that area. In fact, do you know if he had any knowledge of that before the proclamation was made?

Secretary BABBITT. Oh, I am sure he did. I am not certain that he did. And the people who drafted the document—I didn't supervise drafting the document, but I am certain that the Solicitor's Office of the Interior Department knew that.

Now, those leases are valid by their terms. They are a valid existing right. Now, I think it is important to understand that valid existing right has two totally different meanings. One is under the Mining Law of 1872, and valid existing rights under the Mining Law are basically referenced to a whole series of Court decisions interpreting the 1872 Mining Law. These leases are contractual documents which are entered into under the Mineral Leasing Act, and the rights that are conferred by those leases are very different from rights conferred under the 1872 Mining Law.

Mrs. CUBIN. Oh, yes, I have that.

Secretary BABBITT. Because the rights are contractual rights.

Mrs. CUBIN. Right.

Secretary BABBITT. Now, we are obliged, in my judgment, to honor the contractual provisions of the leases. And the reason I say it that way is because the decision to drill and produce under one of these leases is typically conditioned by a whole variety of provisions in the leases themselves and by the environmental laws that regulate that. That is the reason that what we have done is said to the BLM, "They apply. You pass judgment on this lease the same way you would any other lease application, and that amounts to respecting their rights as we must, as we will."

Mrs. CUBIN. I appreciate that, Mr. Secretary. But I think you can see the contradiction that I am seeing. You don't necessarily agree with it, but I think you can see the contradiction that here is Conoco having to go through all of the environmental impact statement studies, you know, all of the environmental analysis in order to produce on the leases that they have.

And then in one fell swoop, the President can come in and, you know, just disregard all of the environmental safeties that we have put in place. It is that contradiction that concerns me. I also wonder if you have a time table when Conoco's permit will be, you know, either accepted or—but you probably don't right now, but if you could provide that?

Secretary BABBITT. Well, I have asked the BLM about that, and I think—bear in mind, it is an exploration permit.

Mrs. CUBIN. Right.

Secretary BABBITT. There is no production here, and I am only an amateur geologist. But I pay a lot of attention to this stuff, and I think, frankly, it is a pretty long shot. This kind of Precambrian hydrocarbon generation stuff is not garden variety, widely known stuff.

Mrs. CUBIN. But they are willing to put millions to find out.

Secretary BABBITT. Yes, exactly.

Mrs. CUBIN. You know, I don't think it is——

Secretary BABBITT. Exactly, no.

Mrs. CUBIN. [continuing]—necessarily smoking——

Secretary BABBITT. Bear in mind, they have got their permits. We are on the verge of them on the State land. I have asked the BLM what kind of time table. I think the answer is this summer. I think it is a matter of a few months——

Mrs. CUBIN. Thank you.

Secretary BABBITT. [continuing]—that it takes them to process that drilling exploration application.

Mr. HANSEN. The time of the gentlelady has expired. The gentleman from North Carolina, a member of the committee, is recognized.

Mr. WALTER JONES. Mr. Chairman, thank you. And I am going to be brief because, as you noted, I had to leave shortly after the Governor of Utah spoke, which I regretted, but we had previous appointments arranged. And I want to make just a general statement, Secretary Babbitt.

I was amazed with the comments by the two Senators and the Governor as to how all this was handled, and I regret that I did not hear your response to their comments regarding how this proc-

lamation was put together and how it was announced, when Members of the Senate and the House were not privy to even a day-or-two-notice before it actually happened.

My comment, Mr. Chairman, is since I have had a run-in with the Park Service down in my district that deal with some horses and the arrogance of those that work at the local level, and as it relates to this situation in Utah, to see the arrogance as to how the Department of the Interior, Mr. Secretary, and seeing how the arrogance of the people at the local level, I just see some real serious problems.

And I think what the problem is is that the bureaucrats, whether they be in your Department or whether they are Members of the Congress, we forget who is paying our salary. And what happened in Utah is that the people in the Federal Government are forgetting who is paying the salaries—the taxpayers of America. And they are totally out of the loop.

And I guess I feel so strongly about it because I have seen in my State when I have a Democratic governor that supports the protection of these horses and yet we have these ongoing battles in my district, and then I look at what the President did in this decision and how it was—if you will excuse me for saying this—it looks like a coverup from the elected men and women that serve Utah until you all determined it was time to drop the bomb on them.

And, Mr. Chairman, I guess I won't keep pontificating, but, in all honesty, this arrogance—I am just incensed by it, to tell you the truth. And I just had to come back hoping that the Secretary would not have left so I could say for goodness sakes, let us listen to the people of America, and let us listen to the people who pay our salaries—yours and mine. Thank you, Mr. Chairman.

Mr. HANSEN. Thank you. Last questions—Mr. Cook from the Second District of Utah. Thank you for bearing with us.

Mr. COOK. Thank you, Mr. Chairman. I just wanted to follow up, if I could. Secretary Babbitt, I didn't like what you said, but you were very clear in saying you just can't support any amendments to the Antiquities Act. I guess that is the Administration's position.

But given the very compelling testimony from Governor Leavitt, from Senator Bennett and Senator Hatch, particularly when Senator Bennett pulled out from that box those documents that say "let us not," I can't remember the exact words, but to paraphrase, "let us make sure this doesn't get out before we can do this, before we make this designation because it might even stop it from happening if this gets out."

Given all that background—and I didn't notice that there were any statements made from you or Chairman McGinty that contradicted a thing that was testified to by the two Senators and by the Governor—I still ask you, and I understand your answer that you don't support any amendments, but can't you give us more of a rationale of why you absolutely oppose the simple amendment to allow a 90 day notification period for hearings or for at least the Governor to bring comments back to the administration? I just can't understand, given that compelling testimony, your quick "no" without responding a little more directly as to that 90 day period of consultation. How can you oppose that?

Secretary BABBITT. Congressman, two things. One, my opposition to amendments is my personal view. Let me just for the sake of precision say that is where I stand. The reason for that is that this Act for 91 years has been an extraordinary, beneficial environmental Act.

The actions of Presidents from Theodore Roosevelt on have always been controversial. When Theodore Roosevelt made the Grand Canyon a national monument, my family was in the opposition because the monument actually took in part of the CO Bar Ranch run by my family. It is still in my family's hands.

I have watched this and read about it across an entire century. Virtually every time there has been a monument declaration, there has been a big rush to amend or repeal the Antiquities Act. It has stood the test of time. The Presidents who have used it have been vindicated, heeded by history. And President Clinton is going to be vindicated by history.

Mr. COOK. Mr. Secretary, I don't mean to interrupt you, but that doesn't really explain the 90-day consultation. You can't really think that is a bad thing in terms of the process. Respond more directly to what is so bad about the 90-day consultation? I mean, I understand your faith, and I share a lot of it in the Act itself, but I can't believe there is really a problem with this other than you are doing it as a marching order kind of mentality.

Secretary BABBITT. Well, it is not a marching order because I haven't discussed this with anyone, and I, you know, reaffirm to you this is my opinion. I think the Act has been vindicated by history, and I do not contemplate supporting any kind of amendment. I just don't.

I think that each one of these proclamations, whether it is Grand Canyon, the Utah monuments, Alaska, have been fraught with controversy. It happens every time. The controversy is always different. That is in the nature of the exercise in presidential power.

And every time there are a raft of proposals, I think the most appropriate way to handle this is to examine the issues, take full account of the public planning process that is now underway unprecedented, judge these issues in their totality, and refrain from making a raid on this Act every time people disagree with a decision.

Mr. COOK. And if I could just finally ask Chairman McGinty, your statement that the Andalex Mine's existing rights are not affected, could you explain that? Obviously, they are affected. What you are saying is they are being replaced with other leases. Would you please explain that statement?

Miss MCGINTY. Sure. And this goes back to Congresswoman Cubin's points as well. The valid existing rights that are within the bounds of the monument are absolutely respected by this monument proclamation, and that extends to Andalex as well. To the extent that Andalex has valid existing rights in this area, those rights are respected, and they will be respected throughout this process.

Mr. COOK. And you see why I am at a loss. Does it mean anything—what you have just said—in terms of the ability to use that 40-acre site. You've obviously visited that site?

Miss MCGINTY. I have been in that area. I could not testify here that exactly that site I was at, but I have certainly been in that area. I have been on the road that the Chairman referred to as well. The point is though to the extent that Andalex has a property right in this area, and to the extent that Andalex wants to continue to pursue a mining operation in this area, that request will be handled in due and ordinary course by BLM.

They would review it as they would review a mining proposal anywhere else in the State. The only difference I would suggest here is that the review would need to be done also with the values that the monument recognizes in mind, but other than that application should Andalex pursue it, would be just treated in normal due course.

Mr. HANSEN. The time of the gentleman has expired. All time has expired of this panel. Let me thank you both. You have been very patient and appreciate your answers. Chairman McGinty, I appreciate you bringing your parents along from Philadelphia. It was nice that they could accompany you today. And I have just got to ask, Mr. Secretary, what does TL stand for of the TL Bar?

Secretary BABBITT. Cincinnati, Ohio.

Mr. HANSEN. It is what?

Secretary BABBITT. Cincinnati, Ohio.

Mr. HANSEN. Oh.

Secretary BABBITT. My grandfather and his brothers went west in 1886 and arrived in northern Arizona in the middle of the winter and bought a few head of cattle and kind of homesick and said, "We think we will name this spread after the home town that we are not so sure we should have left." But they did and they built this ranch up over the years, and it is still out there. And it still runs right up to Grand Canyon National Park.

Mr. HANSEN. Well, thank you. I appreciate that explanation. I thought you said TL. I apologize. My brother-in-law has TL Bar, and it stands for Tough Luck Ranch. We tell him it is Truth and Love. It makes him feel better. Well, thank you so very much. We do appreciate you being with us, and we will now move to our next panel.

Louise Liston, County Commissioner from Garfield County. Now, these are the people who are on the ground—these commissioners that are coming up. They have to run this. Joe Judd from Kane County, Utah, County Commissioner; and John Harja, Vice Chairman of the Utah School & Institutional Trust Lands Administration. If those three would come up, we would appreciate it.

I hope the committee realizes these are the county commissioners that have to make it work. So we are grateful that they would be with us right now, and we will turn to Louise Liston. Louise had been before us many times, a very articulate spokesman for the State of Utah and for her county. Louise, can you do it in five, or do you need more than that?

Ms. LISTON. I have got it cut down pretty close to five.

Mr. HANSEN. OK. The floor is yours.

**STATEMENT OF LOUISE LISTON, COUNTY COMMISSIONER, GARFIELD COUNTY, UTAH**

Ms. LISTON. Thank you, Mr. Chairman. I appreciate your comments. And I extend a good afternoon to you and members of the committee. I would like to thank you for the opportunity to testify before you today regarding the designation of the nation's newest monument.

I am a commissioner from Garfield County, one of the two southern Utah counties seriously affected by the President's action. I am gravely concerned about what is happening to rural communities in the West who rely heavily on natural resources found on the nation's public lands to sustain their local economies.

During the past four years of the current Administration, those counties are being pushed closer and closer to the edge. And as that happens, the battle becomes more fierce and heated. Local custom and culture are systematically being destroyed by land management decisions and environmental scare tactics.

Community morales are low, and we are experiencing an alarming increase in spouse and child abuse and escalating occurrences of alcohol and drug abuse. The number of suicides from the ages of 16 to 28 in a recent Utah Southwest District health report shows southern Utah counties far above the State average. Our young people in rural areas feel that the freedoms guaranteed them by the Constitution are being violated more and more by Federal restrictions, regulations, and designations.

The citizens of Garfield County have shared their scenic beauty with the world and borne the monetary burden of that responsibility for decades. In return for our goodwill efforts, we feel that we, along with the school children of Utah, have been laid upon the sacrificial altar by a President who, with the stroke of a pen, locked up a treasure house of natural resources with promises that can never be kept.

Over 98 percent of my county is State and federally owned. With a meager 1.3 percent of the county's land base left to generate taxes from and a population of 4,000, we are caring for over 3 million visitors. Running a county so impacted is not easy. Congressmen and residents in eastern States where Federal ownership seldom exceeds two or three percent cannot begin to comprehend the impacts being placed upon local governments and local economies that rely upon the land for their survival. Add to that the designation of a new national monument that is already creating serious problems.

The BLM Office in Escalante is averaging 76 telephone calls a day about the monument. The Escalante Chamber of Commerce web site on the Internet received 2,600 hits in February requesting information about the monument. With interest that overwhelming this early in the tourist season, we perceive the resulting impacts will be devastating to our meager budget and will place us in a position of extreme hardship to provide the necessary services that visitors not only expect but demand. Local government should not have to bear that burden alone, especially when they had no input into the initial process that created the monument.

Yet, we are now facing the realities of that designation on a daily basis and the impacts that millions of visitors will bring. We will

handle their waste, provide law enforcement services, emergency services, search-and-rescue, try their criminal cases in our Courts, and maintain safe roads for them to travel on to recreate on the nation's public lands, all on a very limited budget that is being further eroded away by loss of taxes generated by stable industries that no longer exist.

Mr. Chairman, the economic, social, and environmental concerns facing public land counties today are overwhelming. It is very destructive when the fate of a region is determined by people who don't live there and have to live with the direct impacts of their decisions, with little or no thought or feeling for the devastating effects those decisions will have on families, local economies, schools, and livelihoods.

We in the West are tired of having our destiny decided by greedy preservationists and a Congress sympathetic to their cries of wolf. We take offense when accused of abusing the land and destroying its beauty, when, indeed, we have been such caring stewards that the land is now beautiful enough to be declared a "national treasure."

The vast majority of Americans are concerned about their environment. However, they are also concerned about making a living and providing for their families. Only by achieving a balance can we hope to preserve both the land and the people. We must always consider the people and the environment together as though they are one because the human need to use natural resources is fundamental to our very presence on this earth.

Mr. Chairman, members of the committee, once again, thank you for the opportunity to add my testimony to this oversight hearing. It is my hope that a management process for the monument will evolve that will benefit my county, the State of Utah, and this great nation and its people, that it will fairly consider all factors and conflicts and strike a balance between recreation uses and other multiple uses of the resources found there. Thank you.

[Statement of Ms. Liston may be found at end of hearing.]

Mr. HANSEN. Thank you, Commissioner. Commissioner Judd, you are recognized.

**STATEMENT OF JOE JUDD, COUNTY COMMISSIONER, KANE COUNTY, UTAH**

Mr. JUDD. Mr. Chairman and members of the Subcommittee on National Parks and Public Lands, on behalf of the Commission of Kane County, I want to thank you for inviting me to testify regarding the impacts of the designation of the Grand Staircase-Escalante National Monument. I have a statement that I will submit for the record, and I will briefly highlight some of our concerns with the monument and where we stand in terms of our cooperative agreement with the Department of Interior.

First, let me say that we greatly appreciate the efforts that have been made by you, Mr. Chairman, and by our Representative, Congressman Cannon, to keep this issue before the Congress. There has been a tendency by the Federal Government to knowingly or unknowingly place a burden on local governments and then just forget about it. The monument could easily be a classic example of an unfunded mandate. We greatly appreciate your tenacity.

There is a Chinese curse or a parable that states, "May you live in interesting times." Well, these are very interesting times. Last spring we were updating our county's general plan and zoning ordinance. We were trying to plan for change we thought was going to take place with the influx of new residents.

These new residents would come because of high-paying jobs that would follow the development and opening of the Smoky Hollow Coal Mine—incidentally, an underground coal mine. The environmental impact statement was well underway, and a positive finding was expected.

Mr. Chairman, we have 7,000 people living in Kane County, and our budget is only $2.25 million. We just went through the closing of the uranium mine not long ago, costing us 150 jobs; closing of the Kaibab sawmills, another 700 jobs; and looking forward to the opening of a coal mine which would have provided 900 jobs.

We were looking forward to being able to mine that large coal deposit. This coal mine would have added $1.3 million to our budget each year and providing good, primary jobs, as well as helping the school children of Utah.

But last September 18, all that changed. We now have condors for neighbors and the promise of the increase in tourism. We now have many things that are going to take place. As far as tourism is it going to offer us a benefit?

And negotiating the implement agreement included a final rule for those things that are going to take place. The government does not have to be at war with the local government. Given the right chance, we can work things out for everyone's benefit.

The monument area within Kane County is 68 percent of the monument within Kane County. It is 49 percent of our county, an area of 2,500 square miles, and now makes up a great deal of our county. Few people, including the President, have an appreciation for just how large and diverse these monument lands are. It was an enormous decision with enormous consequences. It is a very diverse topography ranging from very stark, without any vegetation of any kind, to a more familiar red cliffs and canyon highlighted by the media.

The budget increase we counted on from coal mining will be offset to some degree by the increase in tourism. But will it be a windfall for the county? I am afraid not. While tourism is already a large part of our county's income, it has a downside also. First, it is very seasonal—May, at best, through October. Second, it provides jobs that pay a minimum wage with no benefits. But the real impact from our tourism we have discovered is a negative impact on law enforcement and our Court times also.

Mr. Chairman, the impacts of this monument also has made us aware of how fragile and inadequate most of our services may be. The monument and the movement of tourists through the monument, of roads and various services, no paved roads on the Kaiparowits Plateau, serious problem of search-and-rescue that has been spoken to already. People go out in these areas and get lost or stranded or worse.

And the added strain upon the tourists who come and break our laws, and the added burden of our Court system. We are already the second largest secondary Court system in the State of Utah.

We also have a tax on our water system and other infrastructure. Last year, we had to drill an additional well in Kanab because many of our fire hydrants were dry midsummer. I might add that we are arresting about 50 illegal aliens each night and have impounded over 100 vehicles.

Not long after the President's proclamation, Kane County entered into a cooperative agreement with the Department of Interior. That agreement provided $200,000 this year to facilitate the improvement of economic, culture, and resources within the county. We entered into this agreement with the BLM and the planning process. We had been left out of the deliberation and the creation of the monument, and we did not want to be left out of the planning process.

We believe the Federal Government has an obligation not only to invite us to participate but to provide the resources which will enable us to fully participate. Otherwise, we simply do not have the budget to be involved in any meaningful way. We are a poor county.

But our participation is, in fact, a valuable contribution to the process. It is a great bargain for the American people. We have had our setbacks here of late, and with our partnership with the Department of Interior, we have a voice in an early and very critical phase. We hope that it will protect our interests, to make this monument a new and positive one.

It is a simple situation that we find ourselves in with this new monument. It is rather like my brother who thought he was a chicken. We really wanted to talk him out of it, but we needed the eggs. But we are not allowed to have those opportunities given to us.

We want a clearly defined role. We would also establish a working relationship with the Department at field level and with the Department here in Washington. Secretaries leave and Departments change, agency personnel are transferred.

We would hope that the Congress will establish a continuing role for Kane County through authorizing legislation and certainly through the appropriation process. It could be considered a demonstration project. But to create a positive experience and adjacent to the monument, our involvement is essential.

Mr. Chairman and members of the committee, we should not be in a position of having to go hat in hand to the Congress or the Federal Government every year and take a subservient or inferior position. Kane County's role should be structured and defined. It could be an extension of the cooperative agreement. We do not, of course, expect to be given a blank check.

Eventually, a large part of the expense providing services could be supported by entry or interpretive fees or the sale of educational materials. It is my understanding that the committee will be considering legislation fees for the national parks and monuments during this next Congress. We would hope that the monument would be included and that we could offer some recommendations as to what might be implemented.

We are beginning, with the assistance of the BLM, to implement involvement and participation programs. This planning will be open and structured to include all points of views within our coun-

ty—the environmental point of view, forestry view, cattlemen, and so on.

We are asking the University of Southern Utah to help us create a record of this process with a short video because we believe it will be a model. Thank you again, Mr. Chairman and members of the committee, for inviting us to participate in these hearings. I will be happy to try and answer any questions that you may have.

[Statement of Mr. Judd may be found at end of hearing.]

Mr. HANSEN. Thank you, Commissioner. Mr. Harja.

**STATEMENT OF JOHN HARJA, VICE CHAIRMAN, UTAH SCHOOL & INSTITUTIONAL TRUST LANDS ADMINISTRATION, ON THE BEHALF OF RULAND J. GILL, JR., CHAIRMAN**

Mr. HARJA. Thank you, Mr. Chairman. As you know, you had asked the Chairman of the Board of Trustees for the School & Institutional Trust Lands to be here today. Unfortunately, he had a family emergency, and so I was asked to pinch hit for him, and I am glad to do that.

You mentioned civility earlier in this hearing, and, therefore, all I could really do on behalf of the School & Institutional Trust Lands is express how frustrated we are by the way this has proceeded and how frustrated we are at the way the Federal Government restricts us from keeping our mandate.

As a result of the monument, the Board of Trustees, on which I sit as Vice Chair—and, by the way, Louise Liston is on our Board—passed a policy statement last January which expressed a certain amount, and it was very lengthy and expressed our distaste for what we perceive is happening to us.

It talked about possibilities of exchange, which I will go into more later, and I want to express our disappointment at the way Public Law 103–93 that Mr. Babbitt mentioned has proceeded. We talked about suing the Federal Government, and we are proceeding down that path, and our attorney is here today. We talked about developing the lands that we have both for mining opportunities and for tourism opportunities, and we are going to look at that.

As the Secretary mentioned, these are our lands—the school trust lands. There are 176,000 acres of them in this monument scattered throughout, and it was amazing to us that Mr. Panetta knew nothing about this and, in fact, told the Governor, "What are those little blue squares here?" If you are familiar with the map of Utah, typically the BLM lands are in yellow and the school trust lands are in blue so it looks like little tiny blue squares all through the place.

It frustrated me when Miss McGinty said these lands are not producing as expected. That is definitely putting the cart before the horse because we feel like we can produce, but every time we get close to something, and somebody mentioned EIS as always being yanked—every time we get close to something, the Federal Government pulls it out from under us and says, "No, no, no. You can't mine there."

Well, where can we mine? We all know the ore is where it is. You can't move it. They mentioned, "Well, there is ore further north of Utah—coal." That is true, there is, but he forgets to mention that

half of that is already promised to the school trust lands for other exchanges.

And he forgets to mention that half the money from that coal up there is being returned to the State of Utah as a whole, not to the trust. And, therefore, if we are going to move, there is a problem. We can't use our own money to pay the trust.

So those kind of statements really frustrate us because I want to explain to you in the monument, for example, the school trust land was working with its partners. It was working with oil companies, Conoco. Conoco had leased the lands from us. We were working with Andalex who had leased coal from us. We were working with other companies that were interested in coalbed methane. All of those things up until September 18 were proceeding apace. In fact, we had great hope that they were going to proceed.

As a direct result of the proclamation on September 18, every one of those is grinding to a halt. We had an agreement nearly negotiated with Andalex—we, the trust—for leasing some other school trust lands near the Smoky Hollow site. It would have paid us a bonus of $7 million. That is now gone.

As has been discussed earlier, the Andalex proposal itself is on hold. I heard somebody mention that they have abandoned the lease. That is certainly not the case. I don't want to speak for them, but they are not abandoning it. They are just looking for value, as are we. Pacific Core hasn't abandoned its leases. It is looking for value, as are we. Everybody is now kind of, you know, trying to figure out what has been done to them.

I want to explain a little bit about what the trust needs in order to feel whole in terms of exchanges because the President mentioned exchanges. It has always mentioned. The New World Mine is an exchange proposal. The difficulty with the Federal Government in consummating exchanges is severe. They are excessively rule-driven.

They are excessively tied to appraisals, and any of you that have worked with property know their appraisals are an estimation, but they are not in and of themselves a definitive statement of value. And they never finish the process, and I want to emphasize that. They never finish the process—rarely, anyway.

We need all of those solved. The trust needs to know if we are going to exchange, where are we going to go? What is being offered? Remember, most of the coal has already been taken for other promises. You have got to remember the 50–50 split.

In addition, if we are going to look at leased property for oil and gas, it is going to have an effect on the U.S. Treasury. And those of you that are concerned about budget deficit, you are going to lose that money. It is going to be diverted to the trust. So what properties are going to be offered? What is the fair value of those properties?

The Secretary mentioned 103–93. We have been working on that now since the Congress passed it in 1993 and the President signed it. It took us 11 full months to agree—almost a year—to agree on the standards of appraisal—just what you are going to appraise? The Federal Government fought us tooth and nail over that.

In addition, I would have to say their appraisals are geared their way—the appraisal process for the Federal Government. They do

not hesitate—they, being the appraisers for the Federal Government, do not hesitate to contact independent appraisals and let them know what they think. Our people have been told—the appraisers that is that are working on this project—"You have to consider the effect on the United States Treasury when you do your appraisal"; i.e., you have to bring the value in low.

We have had appraisers go to—the Federal appraisers come and say, "You did this wrong"—directly, not contacting the State and doing it in some sort of joint meeting—just contact them directly and say, "You did this wrong. You need to change it." This is why we feel frustrated.

You come in and the Federal Government puts this monument down, and the lands are, therefore, suddenly surrounded by a restrictive Federal management. They say our lands are not included, that is true, because they are not Federal lands. They won't plan for those lands. They say, "You will be moved. You will be traded so we don't need to worry about them being there." Nobody consulted us about that.

When they say there is no mining, you have to understand that two-thirds of our income to the trust comes from mining operations. When they say there is no mining, all of our mineral partners in that area, except maybe Conoco—we are not sure about them—are lost.

So the income that we had hoped turn our operations around—I want to point out to you that we have gone from $46 million in our permanent fund to $120 million in five years—the last five years. We have plans to get to $200 million by 2002. Those were dependent on these mineral operations.

You can say, "Well, Andalex would never have gone in. It is $5 a ton more. There are all those roads that have to go in." There were responses to those, and, of course, what we will never know now is could they have done because it is being stopped?

Just quickly—I see the red light is on there—the trust today—oh, one thing I wanted to point out. Immediate loss of royalty for Andalex to the trust was probably around $600,000 a year for 30 years. That money stays in a permanent fund. It is available always to generate interest. We lost the $7 million.

Coalbed methane—right now the properties in the monument are producing about $115,000 a year—not a lot, and that is going to zero real quickly. We have similar operations of coalbed methane up in Carbon County that are producing $200,000 a month—a month. Coalbed methane is not a difficult technology. They are shallow wells. That was almost in the bank. It is exploitation, not exploration. The trust will no longer see that. How can we expect to be compensated for that?

We estimate, if Mr. Babbitt has his way and we have to go into some sort of detailed process to appraise and swap these lands, which I am not at all sure the Board of Trustees is interested in doing, it is probably going to cost 5 to $10 million. The current process on Public Law 103 is up around 5 million for us because we feel we have to defend against the processes of the Federal Government. We have to be prepared to respond to them.

That 5 to $10 million I would put to you should be paid by the Federal Government. It should not come out of the school kids be-

cause all of our money from the lands, some of it is diverted to operations, but the rest goes in the permanent fund or directly to beneficiaries.

Why should we have to divert 5 to $10 million over probably 10 years to pay for the stuff that the President caused? So it may be that we need 5 to $10 million from the Congress to help us out. Mr. Chairman, I probably said plenty. Thank you.

[Statement of Mr. Harja may be found at end of hearing.]

Mr. HANSEN. Thank you, I appreciate your testimony. The gentleman from Tennessee.

Mr. DUNCAN. Thank you, Mr. Chairman. I heard Senator Hatch say earlier that the coal that is there—the low sulphur coal that is in that area—is worth over a trillion dollars. And I have also heard that this is the largest low sulphur coal deposit in the world, and that the second largest was owned by the Lippo Group out of Indonesia, and that shortly after this, they made all these big campaign contributions to the President and the Democratic National Committee. Have any of you heard any——

Mr. JUDD. We have noticed that parallel also, and I don't know. Rush Limbaugh did two or three shows on it, and there has been things in the press. However, there has been a lot of things said about that coal and about the market, and Indonesia certainly is a huge coal producer.

It is a strange thing that the Secretary talks about or Miss McGinty talks about selling coal to a foreign market and a foreign coal mine. They ought to look at Kennicot. Kennicot is owned by a foreign country, and I am sure that that copper goes overseas.

And if we are worried about foreign countries, maybe we ought to tell Honda and all the rest of the people who are here trying to produce things in this country that we are against foreign trade.

Mr. DUNCAN. Well, let me ask you this. I have noticed that these environmental extremists are almost always real wealthy, upper income people. And, in fact, I read that the Sierra Club has an income—their average member has an income of about four times the average American. And what I have noticed is that they have enough resources to be insulated from the harm that their policies do, but they are destroying jobs and driving up prices, and they are hurting poor and working people in the process. Have you done any estimates of how many jobs this is going to destroy in your area? Have you done any figuring like that?

Mr. JUDD. Well, this one mine—this Andalex Coal Mine would have produced about 900 jobs, and then the fallout from those 900 jobs in adjacent States would have been something. I was interested in Congressman Hinchey saying that we were going to have to build a 225-mile road to mine that coal. It is closer to 20 that takes it right out on a highway. I don't know where those figures come from.

It is kind of like what Congressman Hansen talks about here impacting 40 acres, and yet if you look at the extremist literature that is produced, they will talk about, "Do you want a bulldozer in the middle of the Kaiparowits Plateau in an open pit mine?" when, in fact, there will be three portals at the bottom of a canyon 800 feet below the rim, and 40 acres that you would not see unless you

were directly there. There will be no smokestacks. There will be no outfall from that.

To answer your question, Congressman, yes, there were a lot of jobs that would have happened. And, of course, the service jobs beyond that—as the communities prosper, people build homes. They will need more electricians, painters, et cetera, et cetera.

Mr. DUNCAN. But, I mean, also you drive up coal prices for people all over this country when you——

Mr. JUDD. Well, of course.

Mr. DUNCAN. [continuing]—lock up so many resources. And it is such a sad thing that, as I say, some of these environmental extremists have now become the new leftists, the new socialists, the new radicals in this country today, and not enough people I think recognize it yet. But they are really doing some harmful things to this country.

And the problem that I see that you have is that you are a small State, and nobody gets upset about it until it happens to them. And, yet, I have read recently that the Federal Government owns 30 percent of the land in this country now and another 20 percent is owned by State and local governments and quasi-governmental units. And they are putting so many restrictions on the rest of the private property, they are just about doing away with private property in this country.

Mr. JUDD. 98 percent of Louise's county, 95 percent of our county is public lands. 95 percent of the county; 98 percent in Garfield County. How in the world can anyone make a living? And the other thing, of course, is all of these tourists that come, we have got 7,000 people in the county, and in one weekend in Kanab we will have 30,000 people.

Mr. DUNCAN. Let me ask you this.

Mr. JUDD. And the Courts—and they bring all their bad habits with them.

Mr. DUNCAN. The political figures told us that they didn't have any warning about this. Did those of you who live in this area, did you have more notice than they did—this nine-day notice that Governor Leavitt talked about? Did you know this was coming?

Mr. JUDD. We heard the same as everyone else did after the article appeared in the Washington Post. And our county sent myself and two other gentlemen, and we went into Leon Panetta's office; didn't get to see him. The Governor arranged that we could go. Eleven hours before the proclamation and no one in that office knew anything about it.

Mr. DUNCAN. I am not sure many people really realize how large an area this is. In my district is a large part of the Great Smoky Mountains National Park, which is the most heavily visited national park in the country. It is a large, beautiful area——

Mr. JUDD. I have been there.

Mr. DUNCAN. [continuing]—and, yet, with all those millions of people that we have coming there and as big as most people think that area is, it is just about a third the size that this 1.7 million acres you are talking about is—three times the size of the Great Smoky Mountains National Park, the most heavily visited national park in the country.

Mr. JUDD. It is over 100 miles across, and I would really love for you to come, Congressman, and see the thousands and thousands and thousands of acres of chained down pinon juniper that cows graze on, and why that was made a national monument, and why the thing had to stop right at the Arizona border. Apparently, there was nothing of value beyond the Arizona border.

Mr. DUNCAN. If it is like most areas, most of these environmental extremists are people who have come in from other States, mostly who live in big cities and who drive their Range Rovers and put on their L.L. Bean clothing and think of themselves as some big outdoorsman.

Mr. JUDD. Oh, well, we would love to see them come.

Ms. LISTON. Congressman, if I could comment just a moment on your question about the coal, as well as some of the other concerns, I think our gravest concern lies in the boundaries of the monument. If you were to look at a map, you would see that those boundaries directly abut Forest Service lands, national park lands on both sides of my county, and a national recreation area. And the land in between is all monument.

They have gone directly up against those other Federal reserves and put the boundaries there. And they even went across a State highway to make sure that they took in all of the coal reserves even up above the State highway. And so all coal reserves and every bit of land within Garfield County that goes from national park to national park and recreation area and to the Forest Service.

I think that that alone tells me a story. I mean, if they wanted to declare that land a monument to protect certain objects, why were the boundaries so obviously right up against other Federal management lands?

Mr. DUNCAN. Well, Mr. Chairman, I have got just one more thing to say. You know, I voted for most of the really tough environmental laws that have been passed in this country over the last few years, but I can tell you that if we get to the point in this nation where we can't cut a single tree or we can't dig for any coal or we can't drill for any oil, we are going to really hurt the economy, we are going to really hurt the poor and working people. And some of these rich elitists who are doing this type of thing, maybe they can get along all right. But the great, great majority of the people are going to really be hurting. Thank you.

Mr. JUDD. That is where we are in our counties now.

Mr. HANSEN. The time of the gentleman has expired. The gentleman from American Samoa, Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. I certainly will intend to seek the advice of my good friend, Congressman Cannon and Congressman Hansen, and members of the Utah Delegation. We are talking about the issue of coal and the tremendous amount of coal that is contained in the State of Utah.

Given the problems we are having with nuclear waste in the areas that will probably cost in the hundreds of billions of dollars in just trying to clean this mess up, I am curious if perhaps the leaders of the State of Utah will seriously look at this alternative source of energy as if we may have to return to coal by the time

we get through with this nuclear waste problems that we are having now in our nation.

But I would like to ask Commissioner Judd and Commissioner Liston, it is a serious problem, as you have indicated, in your testimonies. It is my hope that as it will be part of the process as stated earlier by the Secretary that these series of hearings or whatever there will be that will take place within this three-year period, hopefully, that the concerns that you have expressed before the committee will be made known to him.

And certainly that members of the Utah Delegation will be apprized of those concerns, and, hopefully, that remedy will be found for the concerns that you raised earlier. And I want to thank the members of the panel for their statements. I have no further questions.

Mr. DUNCAN. [presiding] Thank you very much. The gentleman from Utah, Mr. Cannon, is recognized for five minutes.

Mr. CANNON. Thank you. There were times during the earlier panel when my ability to be civil was much tested, and, of course, the audience actually burst into spontaneous laughter at one point. I suppose this would be funny except that there are such serious concerns going on here, and, Mr. Harja, if I could direct to you a couple of questions.

In the first place, I think that what we heard from the last panel was a pretty flip-base statement that they are going to in the future go through a reason to process. And, yet, you have had some pretty terrific problems with getting fairly simple land exchanges done. Let me just ask two or three things, and if you could respond to them?

How much have you actually spent out of the school trust funds in the appraisal process would you imagine, or what percentage of time was taken up to do that? And then if you would address the possibility of an acre-for-acre exchange, and would that be helpful to you if you would do something like that rather than going through the appraisal process?

Mr. HARJA. The appraisal process that I am familiar with—there are several going on in the State right now concerning school trust lands. The first is the Public Law 103–93. It is a massive project. There were 550 tracts involved. About 150 of those are mineral only. No surface estate. We have been at it since late 1993. Currently, in order to feel that we have evaluated our resources, we are in the neighborhood of $4 million. I am sorry. I forgot the rest of your question.

Mr. CANNON. We are talking about the—I think you have got the cost. We have talked a little bit in the past about an acre-for-acre exchange. In other words, Utah proposed it, or the BLM proposed it in three or four sections that Utah could trade against an individual section so that you are dealing with roughly comparable areas rather than valued appraisals.

Mr. HARJA. The trust would much prefer certainly a shorter, fairer process that doesn't involve as much money. Whether that is acre-for-acre or resource-for-resource, I don't know. But the trust would be very much appreciative of that kind of idea. I understand you are proposing that for your Arches legislation—an acre-for-acre or resource-for-resource. I don't really care what you call it.

We would like to look at a larger base than that. We would prefer to say—it is currently unclear how this coal would be developed. It is "speculative" or whatever you want to call it—the coal in the Kaiparowits.

We would like to find another speculative spot perhaps involving oil and gas or other coal and simply look at the ton-for-ton, look at the BTU-for-BTU, whatever works, keeping in mind the 50–50 split. And we would just as soon that be considered approximately equivalent value and have the Congress authorize an exchange and be done with it. It would be simpler for us.

Mr. CANNON. You expressed some serious concern earlier about the fact that it took fully a year just to come to terms on how they appraise. And since you have come to those terms, they then have gone—that is, the BLM has gone directly to appraisers and raised the concern of the Federal Treasury. I take it you are frustrated with this process?

Mr. HARJA. Well——

Mr. CANNON. Let me just make a general question the three of you can deal with. Would you characterize your experience in working with the local land managers—BLM, Forest Service, Park Service and others—and how you expect that to work out in the future?

Mr. HARJA. In terms of exchanges, I must say that the local BLM folks that are working with us are sincere. However, they are stuck by an excessively rule-bound process. They are incapable, I think, of moving beyond that into a sense of fair market value that you might see in the marketplace. I think they have a strange sense of what an arm's length transaction is, and they attempt to influence that.

We have been working on an exchange out on the Desert Tortoise habitat near St. George. Fairly simply you would think. We weren't even worried on each exchange about reaching actual values—I mean, the same. We would say, OK, one side or the other can get a little high for a time, and then we will compensate with the next exchange.

The appraisals that came in were "reviewed" by the BLM, and there were difficulties from their perspective. And they proceeded to attack the error—you know, try to change them. So it is not that they are not sincere. They want to try. However, they simply have no perspective of what real market value is.

Mr. CANNON. But somewhere between the President's broad promises and the actual application, we are running into some serious trouble?

Mr. HARJA. We are running into difficulties with money and speed and perceptions of value. Yes. And I don't say that—I am not trying to imply that just because I say it, it should be so and it is so. We are prepared to defend what we consider to be real value in a Court room if we have to and show it that way.

Ms. LISTON. If I may respond to that, Congressman, and, by the way, could I also express our appreciation to you for going to bat with us on this issue, as well as other land issues. We feel very encouraged over our new Congressman, and we want you to know that.

Our relationship with local area managers I think—let me give you an example, and I think it will quickly let you know. I think

that being the county of the famous Burr Trail controversy that has been going on for the last 10 years, we have dealt with the local managers and have been micromanaged by the Secretary of Interior from Washington, DC.

And I think that that is our problem. We have been told by local managers that actually the Secretary of Interior sometimes checks daily on what is going on. And so I think that that is an indication of what is happening in local areas sometimes and where the problem arises.

Just let me give you this example. In our recent road issues, which we don't want to get into so I will just give this one small example, and that is that a BLM staffer requested us to go and repair a wash-out on a class B road that we get funds from the Utah Department of Transportation to maintain.

We went out and repaired that wash-out, and we were trespassed by the government and taken to Court by the Department of Interior. When the subpoena was brought to my home by our local manager, his words were, "Please don't kill the messenger." And I think that that is an example of what is happening to us in these small local governments and counties that are trying to run their counties under Federal management and direction.

Mr. CANNON. I suspect that one of the things that is going to happen this summer is you are going to have a whole raft of people in four-wheel drives that prove that there are RS 2477 roads actually out there.

Ms. LISTON. And not this summer. We are already experiencing that more than you can ever realize. One road in my county was over Easter weekend bumper-to-bumper traffic; people out on every road in their campers; four-wheelers going down the road; people walking down the road; at night campfires every place you looked.

I mean, this is no longer an area that is protected. You know, people are kind of messy animals, and they are not like the cows that graze on those lands and actually help the land. And I think you are going to see the lands actually be a casualty in this case.

Mr. CANNON. Thank you.

Mr. HANSEN. [presiding] The time of the gentleman has expired. The gentleman from North Carolina, Mr. Jones.

Mr. WALTER JONES. Mr. Chairman, thank you, and I just have a couple questions. First, I have been here my second term, my third year, and when I first got here, Mr. Chairman, I couldn't quite relate to the feeling of those from the western part of the United States. But today has been probably the best I have had since I have been in Congress, and I want to thank you for taking the time to be here. The only way we can make the best decision for the citizens of America is to listen and to be a good listener. I guess, Mr. Judd or Ms. Liston, tell me how the population of your county each—Ms. Liston, what is the population of your county?

Ms. LISTON. We have 4,000 people in Garfield County. We have eight towns, five of which are now surrounded by the monument. We have 5,000 square miles that we have to manage and provide the services. We currently provide these services on a tax base that generates a little over $300,000 a year. Our budget is $3 million, but three-fourths of that budget at least are pass-through moneys from the Federal Government and from the State.

And so we have very meager budgets, and I might even add that we were not able to make payroll two months last year. And so I think it is very hard for eastern counties whose budgets are huge to realize what we go through in trying to provide services for millions of people.

Mr. JUDD. Our county, Kane County, is 7,000 residents, and our budget is about $2.25 million. And out of that $2.25 million we, like Commissioner Liston here, have to provide services for millions of people who come and want to share our beautiful land with us.

But as I tried to point out to Congressman Hansen is that they bring their bad habits with them. They are either trying to stick something in their arm or up their nose, and our sheriffs and local police take a dim view of that, and so they arrest a lot of them.

And if I had some of the graphs that I could have shown you, the tourism that occurs in our counties each summer puts a spike just as sharp as you can possibly imagine on our Courts and law enforcement. And so those things that normally they would be involved in doing to help the people of the county are denied. The county can't do those.

As far as our tax base goes, like Commissioner Liston said, if we weren't allowed to have pass-through money from the Federal and State governments—it costs us a $1.38 to collect a dollar's worth of taxes. And so we are just without any funds. We have some opportunities they tell me now with tourism that is really going to help us. I have yet to see how it is going to work, but I am hopeful.

Mr. WALTER JONES. Let me just as a follow-up question, Mr. Chairman—Ms. Liston, you or Mr. Judd, were talking about the negative economic impact on the schools in your county based on this decision by the President.

Mr. JUDD. Yes.

Mr. WALTER JONES. Would you reiterate that again? I missed that and I was listening, but I did miss that.

Ms. LISTON. A lot of that comes through the Uniform School Fund which is impacted by the State trust lands. A lot of that comes from the impacts on local economies that generate the taxes that helped the schools. And so our local schools, and the children attending those schools are being impacted in that the county no longer will be able to help them with their buildings because the people are taxed to the max.

We just passed a bond issue this last year to build new schools, and we don't know where the money is going to come from, quite honestly. This school district is in just about as sad a state as we are. And our school kids also are impacted directly from receiving moneys from the Uniform School Fund that the State sections impact.

Mr. JUDD. One of the things that has occurred in our county when we lost the Kaibab sawmill—and Commissioner Liston had a branch of that same sawmill so she lost jobs too—we saw something happen that I never thought I would see before in the graphs that we had produced.

We keep statistics every year for law enforcement, and in the last two years appeared a color that we had never seen before. And I asked the sheriff what that color was, and he said, "That is child

and spousal abuse." We had never seen that color before on the chart.

And I said, "Well, what is this other chart number?" And he said, "That is local people about 58 to 65 years of age caught growing marijuana." And I said, "Why in the world would they grow marijuana?" And he said, "Well, they don't have a job. They have no chance to be ever trained to do anything else, and that is a cash crop," incidentally, the largest cash crop in the United States, "and so they just tapped into something that will produce money for them." They grew it on the BLM land. That is some irony there.

Mr. WALTER JONES. Mr. Chairman, I want to thank you again for setting up this opportunity for those of us to learn more about the problems facing your State. And, thanks to you and the citizens that came up from Utah today very much. Thank you.

Mr. HANSEN. I thank the gentleman from North Carolina. I hope you folks keep in mind I had the opportunity of representing these two counties for 10 years, and I am still a little chapped at the legislation for taking them out of the First District. But, anyway, I share with my good friend, Chris Cannon, many of the responsibilities of these folks. And I don't know if people realize here are two——

Mr. CANNON. A real pleasure, by the way.

Mr. HANSEN. [continuing]—two very small populationwise counties, very large in square miles, about a zero tax base, so to speak. And every time they turn around, the Federal Government treats them like a third or fourth cousin that they won't admit they are even there.

We changed the payment in lieu of taxes around, but, yet, it gets to be not only authorized but appropriated, and what happens is, "Well, we don't have to take care of those guys." Yet, on the other hand, they come in, take away their payment in lieu of taxes, put monuments on them, create all of these problems, and, yet, they are the best citizens in the world.

These are the people that pay their taxes. They are very patriotic. They serve in the military. They do everything they are asked to do, and, yet, they kind of get their short end of the stick. And so it really tees you off when you see that.

And they sit down there with these little towns, little governments, and here comes all these hoards of people from the East, and they come in, play on it, mess it up, start fires, break their legs, put their junk all over the place, and out of that then we don't come and pay our part.

So I kind of look at it if the Federal Government is going to say, "Yes, we own it," and you hear all this testimony it is everybody's ground—you heard that today from all of our friends, especially from the Far East. Then, on the other hand, "Pay your share." And that is the thing that irritates me as I look at these counties, especially our southern Utah counties.

And as Mr. Harja points out, there we lost a huge amount of money that was there. And if you go back during the days of the 70's, you will find out that everybody talked about this supply of coal. That was the big thing we were going to pull ourselves out with, and can you do it in an environmentally sound way?

That was always the issue. And, of course, you can. It can be done very environmentally sound. And as Joe points out, where is that 225 miles of road? I was going to interrupt Mr. Hinchey, but he seemed to be enjoying himself. So there is no 225 miles of road.

So, anyway, we get a little frustrated in Utah occasionally, but that is why we wanted to bring this up to get the attention of people. I do thank this panel for the good work that you have done and how tenacious you are. I would get very discouraged in those positions. But hang in there and——

Mr. JUDD. We are not going to give up, Congressman.

Mr. HANSEN. Keep up the good work.

Ms. LISTON. We are survivors in southern Utah.

Mr. HANSEN. That is true.

Mr. JUDD. And we want to thank you and Congressman Cannon.

Mr. HANSEN. There is some scripture that says, "He that shall endure through the Federal Government shall make it," or something like that—a little paraphrasing. Our third panel is Mark Austin, Boulder Mountain Lodge; Tom Till, owner of Tom Till Photography; and Theodore Roosevelt IV. If those gentlemen would come up, we would appreciate it. We will start with you, Mr. Austin. We appreciated your hospitality when we were down there a few years ago at your place.

Mr. AUSTIN. You are welcome.

Mr. HANSEN. Can you gentlemen do it in five minutes? If you need more than that, let me know.

Mr. AUSTIN. All right. Thank you.

Mr. HANSEN. Do it in five? Mr. Austin, we will turn to you, sir.

## STATEMENT OF MARK AUSTIN, CEO, BOULDER MOUNTAIN LODGE

Mr. AUSTIN. Thank you very much. Dear committee members and Chairman Hansen, I respectfully thank you for the opportunity to submit to you my concerns and ideas about the management of the Grand Staircase-Escalante National Monument, as well as the Antiquities Act.

I am the principal owner of the Boulder Mountain Lodge, a new prospering destination tourism development in the town of Boulder, Utah, population approximately 175, which is adjacent to the new monument. We opened for business in the fall of '94. We have 20 deluxe guest rooms and a restaurant. I have also chosen to continue my career as a building designer and contractor, which has been my primary occupation since September of 1974 while living in southern Utah.

I am also the primary founder of the Southern Utah Independent Forest Products Association. We have been developing ideas and methods to add higher value to wood products in rural Utah. I am associated with Confluence Associates in Salt Lake City, which is a private organization for the promotion and emphasis of environmentally sound economic development in rural Utah.

It has always been my policy not to criticize or denounce an idea unless I or someone has an alternative proposal which I can stand behind and promote as a better solution. I believe strongly, as well as most rural Utahans, that economic development needs to occur and emerge from within rural Utah, perhaps with some outside as-

sistance if needed. The desire for primarily locally and regionally owned business is also a desire to help maintain a better sense of community.

I was recently invited to speak at both the Escalante Chamber of Commerce and the Boulder Business Alliance, which is a Chamber of Commerce. I was asked why Boulder Mountain Lodge is enjoying a very strong visibility in most of the recent media attention given to the monument. And why are we having a higher room occupancy than anyone else in our region. Well, I spoke to them in simple terms.

I support the monument. I am grateful for the monument. Business development should be compatible to co-exist with a healthy, dominant economic fuel—tourism. Ranching and grazing within the monument may be compatible if properly managed. In the adjacent communities, high value added wood products, specialty beef, ostrich farming, fish farming are examples of additional first generation businesses which can complement and even nourish the goose that lays the golden eggs of tourism.

Of course, there are second and third generation business opportunities such as construction and rentals and so on. Businesses which will have a negative impact on tourism should be discouraged and prevented. Much was said in these meetings by most about the need to minimize and not restrict development in the monument, which, if accomplished, is expected to induce and stimulate economic prosperity in the adjacent communities.

Much was said about the need to coordinate planning between the monument planning team and the surrounding communities. Most agree that paving of roads and promoting development within the monument boundaries were a poor idea. Most were angry and disappointed that Garfield County had turned down a $100,000 grant offered by the Department of Interior. All agreed that money is needed within the communities before if ever needed to pave roads in the monument. Nothing contributes to the communities by paving roads. This is not a solution.

I left with the distinct understanding that these two business communities understood my message, and, in fact, over three-fourths of the representatives from the businesses in attendance shared my feelings. I asked then why is this not being heard by our commissioners and State representatives?

Diversity within our park and monument system is what works best, diversity within the framework of experience that the people come here to see and ponder. They are seeking the vastness and wild places that have become a nonrenewable resource. Some people call it wilderness. All in all, it is the same great value of open spaces.

Impacts to these spaces need to be considered with empathy, sensitivity, and appreciation. To desecrate or impair these lands by creating noncompatible development adjacent to or within these remarkable landscapes is a violation of the sanctity of the nation's values.

I have asked myself the question, "Do we need to compromise these landscapes for a higher value, for the need of man, a mandate from God, or the security of our nation?" The simple, clear, undeniable answer is a big no. The respect for the land and the de-

sire to preserve it is reflected in the State of Utah Governor's report on wilderness which indicates that nearly 73 percent of Utahans support 5.7 million acres of wilderness in Utah. 1.3 million of this is within the boundaries of the 1.7 million acre monument. The same percentage is reflected in the Salt Lake Tribune and the Deseret News. Can anyone really imagine that the same people support oil and coal mining in a national monument?

In southern Utah, adjacent to the new monument, extractive industry such as coal mining and uranium have little to do with the economy. In addition, there has never been coal mining culture or economy in southern Utah; central Utah, yes, specifically, the Price, Utah, area which is nearly 200 miles away from the monument.

What is currently and has been growing steadily over the last 70 years is the economic driver of tourism. Tourism is the dominant and largest contributor to the southern Utah economy. Coal and oil development have no place sharing the nest with our goose. What we are looking for is a mate to this goose, not a predator.

And may I add that on the comments on the Antiquities Act that the Antiquities Act allows a President to directly respond to the people in the context that this wilderness and public lands debate in Utah has been going on for a very long time. May I have a moment please? Thank you. And I think this has perhaps stirred things up a little, but it has brought some resolution to the protection of these lands which were slowly decaying during the whole entire wilderness debate. Thank you. Any questions?

[Statement of Mr. Austin may be found at end of hearing.]

Mr. HANSEN. Thank you very much. Mr. Till.

**STATEMENT OF TOM TILL, OWNER, TOM TILL PHOTOGRAPHY**

Mr. TILL. Thank you, Mr. Chairman. I appreciate the chance to be here today and thank you and the committee members for having me. I have enjoyed the debate I have heard today. I think it has been very instructive and very informative. And although I disagree strongly with the beliefs of my congressional delegation, I still hope I am considered a loyal Utahan. I don't consider myself an extremist in any way, shape, or form. I just have a different view.

My name is Tom Till. I am an internationally known landscape and nature photographer, a long-time resident of southern Utah, a member of the Southern Utah Wilderness Alliance, and a strong supporter of President Clinton's designation last fall of the Grand Staircase-Escalante National Monument.

I believe I represent a large number of persons in Utah, both northern and southern, who were overjoyed with the long overdue protection of this unparalleled area and who are saddened and disappointed at attempts by its opponents to attack the motives for its creation, and to put up roadblocks against its implementation.

I would like to briefly speak about why I and why everyday Utahans like me support the monument so wholeheartedly. Over the last 20 years, I have had the rare privilege of taking my camera to over 1,500 national and State park areas on six continents. I have seen firsthand how the world has embraced our amazing American national park ideal—preserving and protecting many of

the planet's most spectacular scenic areas, its most precious homes for wild animals and plants, and providing places for recreation and spiritual renewal.

I am paid by my clients, who include most of the magazines and newspapers you read every day, and many of the sponsors of ads you see every day, to be able to recognize natural beauty and capture that on film. That is my job, and I can say honestly that in all my travels, at home and abroad, I have not seen any place with more varied and wild beauty than Grand Staircase-Escalante.

To demonstrate a little bit of this beauty, I brought along a few images of the monument to show you. I wish I could transport you all there in person now along the Escalante River with spring coming out, but we can't do that so we have got a couple of photographs.

The first one I would like to draw your attention to depicts an overall view of the upper drainages of the Escalante River. This is a sea of slickrock, beautiful in and of itself. But hidden inside this rock ocean are canyons, each with its own personality and charm. Some have high waterfalls streaking down the slickrock into inviting pools. Others harbor huge natural arches made of stone.

Still others like the one depicted in the next photograph—that needs to be turned vertically please—thank you—are home to some of the world's most unusual sandstone slot canyons. Narrowing to only a few feet wide at times, these canyons are places where sunlight bouncing dozens of times down through narrow cracks creates lighting effects that enthrall photographers and leave other visitors awed. Outside the Navajo Reservation in Arizona, the new monument is the best place in the world to experience these places, and many are easily accessible to the general public.

Many people think of the desert as devoid of life, but if you travel there now along the well-watered oases and elsewhere in the monument, you would see wildflowers like in the next photograph. That is also vertical. Thank you. And the last one is upside down.

Towering above, as always, are the canyon walls, as are depicted in the last photograph that you will need to turn right-side up. Edward Abbey said about this country, "There are more hills, holes, humps and hollows, reefs, folds, domes, swells and grabens, buttes, benches and mesas, synclines, monoclines, and anticlines than you can ever hope to see and explore in a lifetime." Or as we say in southern Utah, "No one has seen it all. It is just too big."

Many of the national parks I have visited in foreign countries and in America protect historical and cultural resources like Gettysburg in Pennsylvania or Stonehenge in England. The Grand Staircase-Escalante is also exceedingly rich in these historic remnants, consisting of ruins and stunning rock art from the first Americans.

I have heard some comments from some critics of the monument that they think that part of it isn't too beautiful, and one part that is singled out as not being maybe up to par in terms of scenic beauty is the Kaiparowits Plateau itself. But that is one area that is so rich in archeological resources that I think it would take archaeologists many, many lifetimes to find them all there.

As you all know, the law that allowed President Clinton to designate this wonderful new national monument has been used in the

past to preserve some of our most well-known natural icons. I can't imagine an America without Grand Teton or Grand Canyon National Parks, both originally created as national monuments by this law.

And I happened to look at the complete list this morning, and I was just flabbergasted by the monuments that are listed here. I had no idea that there were this many. And in my opinion, the tourism economy of the Southwest is based primarily on these monuments created by this law. We are talking about billions and billions of dollars that come in to economies of New Mexico, Colorado, Utah, and Arizona as the direct result of the Antiquities Law.

These great parks symbolize our national character and are visited by millions from around the globe. At the time of their creation, history tells us that these parks and others, going all the way back to Yellowstone, were opposed by development interests and short-sighted citizens. I believe in time, and I don't think it will be that long, this park will also take its place in the frontier of America's protected and preserved natural wonders. I urge the committee to work with conservationists, the BLM, and citizens from Utah and across the country to preserve the wild beauty of this fabulous place for all future generations to love and enjoy. Thank you. Sorry I went over my time.

Mr. HANSEN. Thank you, Mr. Till. Mr. Roosevelt.

**STATEMENT OF THEODORE ROOSEVELT IV, MANAGING DIRECTOR, LEHMAN BROTHERS**

Mr. ROOSEVELT. Mr. Chairman and members of Congress, I am Ted Roosevelt IV, a businessman, conservationist, and a rancher. As you probably can tell, I am also a great grandson of President Roosevelt who signed the Antiquities Act of 1906 into law. I am delighted to be here. Any American would consider it an honor to have the opportunity to testify before a congressional committee on a subject in which he has an interest.

I am here today principally to support the Antiquities Act of 1906 and all the national treasures that that Act has preserved, and not to testify specifically for the Grand Staircase-Escalante, the focus of your hearing today. Quite honestly, I have not been there yet. There, obviously, are better qualified speakers than myself on the values of that particular place which make it worthy of designation as a national monument.

I am here to testify on behalf of all Americans, who, from the day the Antiquities Act became law, June 18, 1906, have benefited from the wisdom of your predecessors. As stated in the Act, it protects "historic landmarks, historic and prehistoric structures, and other objects of historic and prehistoric interest" that deserve permanent preservation for future generations of Americans.

The Antiquities Act is a unique and farsighted concept and a worthy example of Congress effectively responding to a national outcry from the American people. In the late 19th century, a national movement arose out of concern about the vandalism and looting that was occurring on landmarks of prehistoric, historic, or scientific interest. In response, Congress authorized President Benjamin Harrison to "reserve" from settlement or sale the Casa Grande ruin in Arizona.

In 1904, the Commissioner of the General Land Office wrote to the Secretary of the Interior, "What is needed is a general enactment, empowering the President to set apart all tracts of public land which it is desirable to protect and utilize in the interest of the public."

My great grandfather signed the law and was the first President to use the Act, declaring 18 national monuments. When he used it to set aside the Grand Canyon National Monument, he urged, "Leave it as it is. You cannot improve upon it; not a bit. What you can do is to keep it for your children, your children's children, and for all who come after you."

Since that time, over 100 national monuments have been proclaimed by Republicans and Democrats alike. Presidents such as Taft, Harding, Hoover, Coolidge, Franklin Delano Roosevelt, Eisenhower, and Ford have all found this an invaluable tool to preserve what clearly needs protection.

Your predecessors in Congress have also used the Act to designate—by special Act of Congress, without the initiative of the President—some 38 historical and scientific national monuments. Many of those were privately owned lands.

This is truly a unique piece of legislation because it establishes a means of setting aside special places with the speed not found in the ordinary legislative process. Many of these proclamations were controversial, some more than others.

Nonetheless, on balance, the American people have appreciated the fact that the Federal Government has a legal tool with which to respond to public concerns about the preservations of places that are keystones to our national memory and help define us as a people and a nation.

Consider how today's voters and your children would feel if you were the Congress of the day and had failed to protect the Grand Canyon, or Death Valley, the Statue of Liberty, Denali, Glacier Bay, or Thomas Edison's laboratory. These are just a few of the monuments protected by the Antiquities Act.

There are over 100 other places enjoyed by hundreds of millions of visitors, your constituents today—lands such as the Grand Staircase-Escalante will continue to be visited by future generations of America, all grateful for your foresight.

Even if an American of the 21st century trekking through Grand Staircase-Escalante has forgotten the names of the men and women of the 105th Congress who made that journey possible, he or she will feel the glory of the American landscape and be grateful that American voters found men and women of good faith in each generation to preserve our sacred places for the next generation.

So I come before you today, not to testify as an expert on legislation or on the Grand Staircase-Escalante proclamation, but to ask you to respect the wisdom of past Members of Congress, Members who were in agreement with past proclamations and some who were not, but all accepted the particular proclamation of the sitting President and found ways to carry out their responsibility to work with the President, resolve conflicts about specific property, and still preserve the Act.

The Antiquities Act of 1906 has been the means for this nation to make one of the most valuable investments any Federal Govern-

ment can make, and that is in the pride and honor and the living memories that our great places carry for our people. Thank you for the privilege of being able to testify before you today.

Mr. HANSEN. Thank you, Mr. Roosevelt. Mr. Hinchey is recognized for five minutes.

Mr. HINCHEY. Well, thank you very much, Mr. Chairman. I just want to first of all apologize for having to leave the room for a while. I had an important appointment back in my office so I had to be out for a few minutes. But I want to express my appreciation to the members of the previous panel and to the three gentlemen on this panel for their testimony and just thank them for their concern about this very important issue.

I happened to be able to hear the testimony of Mr. Roosevelt, and the point has been made a number of times during the course of this hearing that it was, of course, Theodore Roosevelt I who was the first President to use this ability, and it has been done so by virtually every President in this century since then to designate national monuments and to recognize, as you put in your testimony, those areas that define us as a people and inform us as to who we are, where we have been, and hopefully give us some indication as to where we are going.

I know that there are a lot of people who support this issue, Mr. President. Among them are people who have written to us. Now, I have here a box which contains several hundred letters that have been written to the committee, and I know in accordance with what you have said earlier, you intend to make every document relative to this part of the record. So I just want to stipulate that or request that these letters also be made part of the record, and I am sure that is your intention. Thank you very much, gentlemen.

Mr. HANSEN. The gentleman from Utah, Mr. Cannon.

Mr. CANNON. Thank you. Mr. Roosevelt, you know, I have been fascinated by your great grandfather. He was a remarkable figure. Have you done a significant study of his life?

Mr. ROOSEVELT. I have certainly read a lot about him, but to say a significant, he is a difficult man to get your hands around.

Mr. CANNON. In fact, I view this as one of the great opportunities, and what I would like to explore, and I really have no preconceptions about this, is how he went about using the Antiquities Act during his presidency. My sense was that he was a man that was aggressive, that he didn't shun controversy, but that what he did, he did openly. Would that not be a fair assessment?

Mr. ROOSEVELT. Well, you are putting me a little bit on the horns of a dilemma because I don't really want to comment on the relations between this Congress and the Administration. But I think I will add that he was clearly an extraordinary politician. He was a man of the West. He spent a lot of time out in the West. He knew the West. But he was willing to take on controversy.

When he set some of those lands into either national parks or national monuments or set up the national forests, there was a lot of controversy, and some of the constituents in the West called him a thief because at that time they didn't like what he had done. But I think in the light of 20/20 hindsight, we do like what he has done.

Mr. CANNON. But did they know in advance that he was going to do it?

Mr. ROOSEVELT. I suspect in most instances he probably did. He was usually pretty good at telegraphing. But you may recall when he set aside the national forests, he and Gifford Pinchot for several days sat on the floor of the White House, and they mapped out which were going to be the lands of the national forests. He then issued an executive proclamation which expired when he signed the Agricultural Omnibus bill. But having issued it before, it was valid. So that was an example of where he did not do something in the public.

Mr. CANNON. But people knew that was coming? I mean, they knew there was discussion and then it became a matter of debate? That is actually a little bit of a difference. What I can't imagine is your great grandfather having a panel of people sitting in front of Congress like we had today saying, "This was shrouded in secrecy. We were cut out of the process. We were totally deceived about what was going on."

That is where I think there is a difference in perception about history, and, frankly, for the whole panel, I think that you may misperceive the impressions of some of us. I think like Mr. Hansen and I have some significant agreement with each other and with you on the issue. We are not so much concerned about the monument itself, that there are areas that are absolutely beautiful.

I will say that my staff went down on a tour with the BLM group and came back with several hundred pictures like those you have showed us today, Mr. Till. There is only one picture of the Kaiparowits area because it is not so very beautiful as the things you have showed us. But that does not mean even a reaction to that particular part. The reaction is probably to the balance that we are trying to achieve in our public life.

Among other things, there has been a very intense debate in recent years about public lands in Utah, as opposed to the time of Teddy Roosevelt—was one of the very few people in the East who understood the West, who had lived in the West, and who appreciated the grandeur and beauty of the West.

Let me say, Mr. Austin, that you came to the conclusion—it was a dramatic, unequivocal no. I think that people can disagree about the co-habitation of coal, oil, and gas with what you call the goose of beautiful nature and still appreciate the beauty of this area, which I personally love and have loved ever since I was a very young child and spent time down there. In fact, we have family buried in that area.

Let me ask Mr. Till—actually, I had a couple of questions for you. In the first place, you used the term icon which is sort of an odd term. It often suggests a religious devotion. When you used that for these areas down there, did you have any sense of that, or do you just mean a beautiful area?

Mr. TILL. I guess I don't quite understand your question. I was using icon in terms of maybe not so much the religious connotation as something that is set up as a symbol of great beauty, and I think this park will be in the same league as Grand Canyon, Glacier Bay in the public perception in the future. That is all I was trying to say.

Mr. CANNON. You realize, of course, that that is not an area of disagreement among us.

Mr. TILL. OK.

Mr. CANNON. But let me ask you just one final question.

Mr. TILL. Sure.

Mr. CANNON. You announced you are a member of the Southern Utah Wilderness Alliance. They as a group had wanted to have about 1.3 or .4 million acres in this monument area set aside as wilderness. Essentially, this matter is confusing, I think even with Mr. Austin's testimony. Wilderness is a designation to keep the incursions of mankind out; meaning, you don't take bicycles, you don't take motorcycles, and those sorts of things in.

And, yet, you talk about people coming in as though there is not an inherent conflict which I think would have been resolved if there had been an open discussion about this. Are you not concerned about people coming in, Mr. Till, in large numbers into this area—the sensitive areas this summer and later on that your group has been very upfront about making into wilderness?

Mr. TILL. I am concerned about that somewhat, but I think our critics accuse us of locking land up and then they accuse us of opening it up to too many people at the same time. So I think there would be recreational opportunities in this monument with wilderness designation for wilderness-type recreation, and there would be other areas where there would be plenty of opportunity for other kinds of recreation.

But the fact that there are a lot of people coming there, of course the publicity has generated that, and I think it will continue. But I am not—there are so many factors why so many people are coming to southern Utah I think it is a very complex thing.

I think, as you know, the Wasatch Front population has grown to a huge degree, and people are coming down from the north so that is a factor. And I think there are other factors outside just the designation of a national monument that conservationists have no control over in terms of people coming to the area.

Mr. CANNON. Would the Chair indulge me for two more minutes?

Mr. HANSEN. One more question.

Mr. CANNON. Thank you. The issue here is not locking up or not locking up the land. I mean, a monument designation does what it does, and I believe that it actually eliminates the wilderness status within the monument. In any event, if you are going to go beyond the relatively small amount of wilderness that was under a study area in there to the larger amount, that would take an Act of Congress which apparently I don't think is going to happen very quickly.

That leaves this area vulnerable. I believe that vulnerability flows directly from the lack of process that we went through in dealing with this and subjects areas which I think that both you and I agree—not only do we agree as to the beauty, but we agree that there are some seriously important delicate ecosystems within that monument which are now going to be opened up. Don't you find that a basis for criticism of the President's action and the precipitous nature that he took that action?

Mr. TILL. Well, I would have to trust Secretary Babbitt and his comments here today and hope that some of those matters can be resolved with the partnership that he is proposing to put together.

Mr. CANNON. But you don't have any concern that you want to express here?

Mr. TILL. I am concerned, yes. You know, nothing in life is a win-win situation, and I think there are maybe some problems with heavy visitation to this monument. It disturbs me somewhat, I will be quite honest with you.

Mr. HANSEN. I think Mr. Austin wants to respond also.

Mr. AUSTIN. Yes. I would like to respond to that as well. I am in a unique position to be able to evaluate that almost on a daily basis as the operator and manager of the lodge that I own. And it is my observation that the vast, vast majority of the people that are coming to visit the area, and now has nearly doubled since the announcement of the monument—proclamation of the monument, most of these people—I guess I should talk about it perhaps differently.

I don't know of anybody who is coming there to intentionally do any damage to the monument, and that perhaps on occasion there might be someone who unintentionally or intentionally runs off into a roadless area and so forth.

But primarily the monument is so large that most of the visitors come and drive Highway 12 and a few of the larger roads—the Hole in the Rock road, the Burr Trail and so forth—and they are not out into these more sensitive areas. And I really share those concerns that you do and Congressman Hansen and all of us here. But, yet, I think that within the next three years, we are not going to suffer any major impacts that we can't——

Mr. HANSEN. One more.

Mr. CANNON. Thank you, Mr. Chairman. Let me tell you my concern. The people that have come thus far, I believe your characterization is probably correct of them. Those are people that have the latitude to take vacations early or late.

Having worked much of my college career and otherwise with people that work different kinds of jobs, my guess is that this summer you are going to have lots and lots of people in four-wheel drives who are going to be out on their testosterone-laden journeys that are going to take them well beyond those obviously marked roads. And I am deeply concerned.

This is not a matter of political posturing. I am deeply concerned about what the impact of those vehicles is going to be, and the very largeness of the monument itself is what leads me to think you are going to have some serious damage out there.

Mr. AUSTIN. You know, well, that is a regulatory concern as well, but I must point out that the impacts from that I would much rather incur and endure than the impacts from coal and oil mining.

Mr. HANSEN. The time of the gentleman has expired. The gentleman from American Samoa, Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Gentlemen, thank you for your statements. I presume or at least I had hoped that perhaps you have had the opportunity of listening to the prior testimony that was given, especially by the members of the Utah Delegation and Secretary Babbitt and Miss McGinty.

I respect the fact that statements have been made very adequately and eloquently about the Antiquities Act, the fact that for some 91 years this Act has never been amended. But I think from

all the testimony and statements that have been made, there seems to be a common thread, in my opinion, of the concerns that have been expressed by the top officials and the government or the State of Utah to the effect that it wasn't so much questioning the authority of the President as far as the Antiquities Act is concerned—he has the authority—it wasn't so much questioning the validity of the fact that these are certain areas in the State of Utah that could be designated, whether it be as a monument or even a wilderness area.

We have also heard that this situation did not just come about within the last two or three months. This has been ongoing now, at least in my membership of this Subcommittee, for the past three or four years—I have been following it to some extent.

But I want to ask you gentlemen, the question raised here by the members of the Utah Delegation, and I know that the Antiquities Law does not require the President to do any of the things that we are trying to suggest very strongly, at least from the members especially of the Utah Delegation, that it is the unwritten rule or the wishes of comity or fairness in the process that the President should always consult with the highest officials of the States or whatever given issue that affects the interests or the needs of that State. And I am saying mainly the State of Utah.

Do you think, gentlemen, that there is a very valid concern expressed by the Utah Delegation? Yes, there was consultation but in the effect that Governor Leavitt, if I recall, was consulted only in a matter of hours or even one or two days before this proclamation was issued—an issue where you are talking about 1.7 million acres, greater than the size of Delaware and Rhode Island and the District of Columbia, having a tremendous impact on the concerns that have been expressed by the members of the Utah Delegation.

Do you think that perhaps the President could have addressed this issue a lot better, or maybe putting it another way, do you think that the President still would have been able to issue the proclamation if he had consulted with the Utah Delegation maybe one year prior to the issuance of the proclamation? I mean, you are saying that the vast majority of the people of Utah support the President's actions. Do you think that perhaps the President still could have done it in a better way?

Mr. TILL. I am not sure that the vast majority of the people in the State do support the action. I mean, I think there are a very significant number that do. Polls I saw I think were about 60/40 against the designation. So I am not trying to say that. I do think that in time more people in Utah will come to like the idea, and I think that the test of time will convince a lot of people there that this was a good thing to do.

In terms of the President's actions, I am not a politician. I am an artist, and I listened to the testimony of Miss McGinty today, and her explanations sounded reasonable and clear to me. She sounded like a credible witness to me. So that is all I can really say.

Mr. FALEOMAVAEGA. Mr. Austin, I was confused. I thought maybe it was Boulder, Colorado, but I didn't know there was a Boulder in Utah but go ahead.

Mr. AUSTIN. Boulder, Utah. Yes. Well, I agree with Tom that initially it was somewhat of a shock to everyone, and to some it was a pleasant shock and some not so. Yet, what I witnessed locally in Boulder and Escalante, and these are very small communities all adjacent to the parks, that there was some feeling that they didn't like the way it was done; yet, they were happy with the results.

Now, I think that, with no intention of insults here, our Utah Delegation should pay close attention to that, that we do have—the result is we are protecting these lands, and it has bypassed an impasse that we have been at for many, many, many years.

And I commend the President for taking that bold action, and I think that he is just not—he didn't go off half-cocked and without thinking about this for some time. I mean, I didn't speak to him, but I am sure that from what we have heard today from Secretary Babbitt and Kathleen McGinty indicates that it was, you know, primarily his decision and so forth.

And I know that today most of the people that I am associated with in business are quite excited now that the monument is there, and they are seeing the opportunities. They have kind of gotten over the initial shock, and the whole issue of process is rather forgotten. They are not thinking about it anymore. I am hearing a lot of discussion about it here today, but at the local level, it is a forgotten issue.

Mr. FALEOMAVAEGA. Just one. I know my time is up, Mr. Chairman, but I would note for the record that this three year management plan is ongoing right now, and the Administration is actively participating in the process, and that the residents and the leaders of the State of Utah are participants.

Mr. AUSTIN. Well, at the local level—I mean, we do have BLM folks strolling into town asking myself as well as many other people in town to encourage them to make comments and be part of the process. You have to remember the nature of these small rural areas is that engaging in process is generally not part of their way of doing things. They tend to ignore many of the processes of attending meetings and so forth.

Mr. FALEOMAVAEGA. My time is up. Thank you, gentlemen.

Mr. HANSEN. I thank the gentleman for his comments. You know, I have been on this committee for 17 years, and I always stand amazed at the perception that people have of the law—the Antiquities Law, the NEPA Act, the FLPMA Act, and the Wilderness Act. Mr. Roosevelt makes the statement, "You cannot improve upon it. Let it alone." They have already improved upon it. The NEPA Act changed it, Wilderness Act, FLPMA—they all have parts of it that could be instigated anytime somebody wants to. It has already been done.

You get into other issues of what happens now. Do you realize when this happened, my phone rang off the hook, and it was people from Idaho, Oregon, California, Georgia, all of them saying, "Don't let that happen in my State." And you probably heard some testimony here when it happened in Alaska—you know what happened in Alaska? Right after that, Alaska said no. They are off. Statutory law took them off.

Same thing happened to Wyoming. When Wyoming got one put on, statutory law took it off. So there are two States excluded. So,

yes, I think right now there is probably an attitude to repeal the whole shooting match because it has outlived itself.

But on the other side of the coin, it probably wouldn't be a smart thing to do. That is why I think Mr. Babbitt wasn't thinking, and I cautioned him to think it through, that possibly it would be smarter, if he thinks about it, and amend it. This law didn't come from God. It wasn't coming from Moses on Mt. Sinai that gave us the Ten Commandments. Laws are made by puny little men, and men change them.

Now, you all talk about protection, as everybody has today, as if you think that the monument is more protection than the FLPMA Act. Give me a break. It is just not so. The FLPMA Act is more protection than a monument, by far.

I asked Mr. Till, the artist, where has anything been desecrated under the FLPMA Act in your area? I haven't seen it, and I have represented that area for 10 years. I have lived in that area my entire life, back and forth every year—two or three times a year I am down there—two or three times a month many times. I am still looking for where that has happened.

The FLPMA Act—what a lot of so-called environmentalists don't understand—gives much more protection than the monument does. So when one of our great artists that lives in Sundance, Utah, stands up and says, "All of this will be open for development if this bill goes through," in effect, shot himself in the foot on this monument. Now it is starting to open for development.

You saw Senator Bennett there. Have you seen his bill? Well, maybe, Mr. Austin, you want that. You probably want thousands of people pouring through Boulder every day. I don't and, frankly, I think those three pieces of wilderness we put in there should be in that Wilderness Act in the area.

And, in effect, in my opinion and the opinion of a lot of good legal experts, the wilderness WSAs were extinguished when the President stood up and did that, and we are willing to take that to Court and find that out. And I think we would win on that one because there is nothing in a monument that allows for wilderness. It does in these other areas. Now, it has been wilderness, but it happens after so we are all entitled to our viewpoints. I have no problem with that.

Mr. Austin talks about the idea that the majority of people want 5.7. Which of the hundred different polls are you talking about? There are polls all over the place. One is 200 sampling. Now, those of us—we are in the poll business. We don't want to be, but we are just because we are elected. And I think, if anything, I could read a poll. And a 200 sample, the one you are referring to, taken in the middle of Salt Lake is hardly a very good poll.

The best poll taken on that was done by a fellow by the name of Dr. Snyder at the Utah State University who did five—put it out, and the first question, he explained, "How many of you want the 5.7 million?" Now, this was done in an exhaustive study. 54 percent of them said they wanted it.

The next question they explained what wilderness was, what you can and can't do, because the vast majority of Utahans and Americans don't even know the definition of the term. After they understood it, it dropped to 19 percent. I would be willing as Chairman

of this committee to put it on the ballot and say, "I will live with whatever the people of Utah want. Vote on it." If they want 5.7, fine. I will back Congressman Hinchey's bill. If they want zero, fine. I will back that up. If they want 1.2, I will back that.

But many times most people don't realize. I would be more than willing to put it on the ballot and find out. I hear this stated all the time from environmental people, "The majority of them want it." Where are they? Show me that poll. We have looked at every one of them and had that thing polled to death. So really I respect what every one of you said.

I have great respect for Theodore Roosevelt and what he did. My son-in-law, a very prominent litigator in Utah, gathers Teddy Roosevelt books like you can't believe. I have never seen such a collection of them in my entire life. In fact, if you don't mind, I will have him call you. He would love to talk to you.

But let us put this thing in its proper perspective when we talk about this. One thing nice about living in America, we can all say what we think. And today we have heard a lot of that, and I appreciate it. And this hearing is adjourned.

Mr. ROOSEVELT. The "it" that you referred to, the antecedent to it is not the Antiquities Act, but Grand Canyon.

Mr. HANSEN. I am sorry?

Mr. ROOSEVELT. The "it" that you referred to is not the Antiquities Act that can't be improved upon, but it is Grand Canyon.

Mr. HANSEN. Oh, I would agree with that.

Mr. ROOSEVELT. You said in your opening statement that "it" was the——

Mr. HANSEN. Unlike you, I have a love affair with that area. I have no problem. I agree with that.

Mr. ROOSEVELT. OK.

[Whereupon, at 3:07 p.m., the Subcommittee was adjourned; and the following was submitted for the record:]

[Additional material submitted for the record follows.]

I

105TH CONGRESS
1ST SESSION

# H. R. 413

To prohibit further extension or establishment of any national monument in Washington State without full public participation and an express Act of Congress, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 1997

Mr. HASTINGS of Washington introduced the following bill; which was referred to the Committee on Resources

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# A BILL

To prohibit further extension or establishment of any national monument in Washington State without full public participation and an express Act of Congress, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LIMITATION ON FURTHER EXTENSION OR ESTABLISHMENT OF NATIONAL MONUMENTS IN WASHINGTON STATE.**

No extension or establishment of a national monument may be undertaken in Washington State after the

1 date of enactment of this Act without full public participa-
2 tion and an express Act of Congress.

105TH CONGRESS
1ST SESSION

# H. R. 596

To prohibit further extension or establishment of any national monument without an express Act of Congress.

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 1997

Mrs. CHENOWETH (for herself, Mr. CRAPO, Mr. DOOLITTLE, and Mr. SMITH of Oregon) introduced the following bill; which was referred to the Committee on Resources

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# A BILL

To prohibit further extension or establishment of any national monument without an express Act of Congress.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PROHIBITION ON FURTHER EXTENSION OR ESTABLISHMENT OF NATIONAL MONUMENTS.**

(a) PROHIBITION.—Notwithstanding any other provision of law, no extension or establishment of a national monument may be undertaken in the United States without an express Act of Congress enacted after the date of enactment of this Act.

1 (b) DEFINITION OF UNITED STATES.—For the pur-
2 poses of subsection (a), the term "United States" means
3 the several States, the District of Columbia, and the terri-
4 tories and possessions of the United States.

I

105TH CONGRESS
1ST SESSION

# H. R. 597

To Prohibit further extension or establishment of any national monument in Idaho without full public participation and an express Act of Congress, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 1997

Mrs. CHENOWETH (for herself, Mr. CRAPO, Mr. DOOLITTLE, and Mr. SMITH of Oregon) introduced the following bill; which was referred to the Committee on Resources

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# A BILL

To Prohibit further extension or establishment of any national monument in Idaho without full public participation and an express Act of Congress, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. LIMITATION ON FURTHER EXTENSION OR ES-**
2 **TABLISHMENT OF NATIONAL MONUMENTS IN**
3 **IDAHO.**

4 No extension or establishment of a national monu-
5 ment may be undertaken in Idaho after the date of enact-
6 ment of this Act without full public participation and an
7 express Act of Congress.

I

105TH CONGRESS
1ST SESSION

# H. R. 1127

To amend the Antiquities Act to require an Act of Congress and the concurrence of the Governor and State legislature for the establishment by the President of national monuments in excess of 5,000 acres.

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IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 1997

Mr. HANSEN (for himself, Mr. CANNON, and Mr. COOK) introduced the following bill; which was referred to the Committee on Resources

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# A BILL

To amend the Antiquities Act to require an Act of Congress and the concurrence of the Governor and State legislature for the establishment by the President of national monuments in excess of 5,000 acres.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Monument Fairness Act of 1997".

1 **SEC. 2. CONSULTATION WITH THE GOVERNOR AND STATE**
2 **LEGISLATURE.**

3 Section 2 of the Act of June 8, 1906, commonly re-
4 ferred to as the "Antiquities Act" (34 Stat. 225; 16
5 U.S.C. 432) is amended by adding the following at the
6 end thereof: "A proclamation under this section issued by
7 the President to declare any area in excess of 5,000 acres
8 to be a national monument shall not be final and effective
9 unless and until the Secretary of the Interior submits the
10 Presidential proclamation to Congress as a proposal and
11 the proposal is passed as a law pursuant to the procedures
12 set forth in Article 1 of the United States Constitution.
13 Prior to the submission of the proposed proclamation to
14 Congress, the Secretary of the Interior shall consult with
15 and obtain the written comments of the Governor of the
16 State in which the area is located. The Governor shall have
17 90 days to respond to the consultation concerning the
18 area's proposed monument status. The proposed procla-
19 mation shall be submitted to Congress 90 days after re-
20 ceipt of the Governor's written comments or 180 days
21 from the date of the consultation if no comments were re-
22 ceived.".

**Statement of**

**Governor Michael O. Leavitt**
**Utah**

***before the***

**Subcommittee on National Parks, Forests and Lands**
**House Resources Committee**

**United States House of Representatives**

**April 29, 1997**

Thank you for allowing me the opportunity to speak to you today about the recently designated Grand Staircase - Escalante National Monument in Southern Utah.

The protection of public lands in the State of Utah is a familiar issue. The federal government administers more than 65% of the land in the State, and we are continually pursuing new and better ways to work with the federal government in the planning and administration of these lands. We have worked hard to build relationships, forge partnerships, and lay the groundwork for interagency cooperation unmatched by other public lands states. For these reasons, the chain of events surrounding the establishment of the Grand Staircase - Escalante National Monument have caused me great concern, and created a greater distrust of governmental processes by many people in the State of Utah.

On September 18, 1996, President Clinton invoked a provision of the 1906 Antiquities Act to designate 1.7 million acres in southern Utah as the Grand Staircase - Escalante National Monument. The first reports of this that I, or any other elected official in the State of Utah, had received were from a story in the Washington Post only 9 days prior to Mr. Clinton's public proclamation. I would like to share with you a day-by-day account, from my perspective, of the events leading up to President Clinton's announcement:

Monday, September 9, 1996: Upon reading of the new National Monument in the

Washington Post, I placed a call to Secretary of the Interior Bruce Babbitt. I asked Secretary Babbitt about the article in the Post and was told that Interior was not involved and that I should call the White House.

When I called the White House, I spoke with Director of Intergovernmental Affairs, Marcia Hales. She had seen the story and told me that they weren't certain were it came from. She committed to get back to me relative to how serious the proposal was.

Wednesday, September 11, 1996: Two days later, Ms. Hales reported that a monument was being discussed but "no decision had been made." I asked, "what is the timing on this?" "That's what we are trying to decide," she replied. I asked Ms. Hales for an appointment with the President Clinton or his Chief of Staff, Leon Panetta. Later that week an appointment was confirmed with Mr. Panetta for the following Tuesday.

Friday, September 13, 1996: My office became aware through the news media that an important environmental announcement was planned by the President at the Grand Canyon the following week. Preparations were being made by environmental organizations to transport groups from Utah. When we inquired directly of the Administration about the time, place and subject of an event they were not willing to even confirm the event would occur. Local governments in Utah were becoming more and more concerned. On two other occasions during the week I had conversations with Mr. Babbitt or his office. They continued to indicate that they had no information, insisting that this matter was being handled by the White House. When we called the White House we were referred to the Interior Department.

Late Friday afternoon, Secretary Babbitt called an emergency meeting in his office for the next day, Saturday. The Congressional delegation was invited. I was not able to attend the meeting, but the fact that meetings were being called on a weekend added to the sense of inevitability. However, we were still being told that "no decision had been made."

Monday, September 16, 1996: The weekend was a blur of phone calls, and meetings with local officials. Despite the fact that buses where being organized to take Utahan's to Arizona for the announcement, the Governors office could still not get confirmation of where or what the official announcement would be. I traveled to Washington for my meeting with Mr. Panetta.

Tuesday, September 17, 1996: Tuesday afternoon, I met with Mr. Panetta. I was told that Mr. Panetta had the responsibility of making a recommendation to the President. Mr. Panetta said that he had set aside the afternoon to prepare that recommendation. Kathleen McGinty, Chair of the President's Council on Environmental Quality, Marcia Hale, Director of Intergovernmental Affairs and another member of the white house staff.

My presentation focused on the problems caused by this complete abandonment of public process. I explained that it was our desire to protect the spectacular lands of this region but that this was the wrong way to go about it. I detailed for them a proposal ironically called, *Canyons of the Escalante: A National EcoRegion* that resulted from an intergovernmental public planning process I initiated three years earlier to protect the area. This concept was developed by state, local and federal land managers working together for over a year. It would have provided flexibility and yet gave even more stringent protection for the most pristine areas. I also spent a considerable amount of time discussing our school trust lands. Mr. Panetta asked me to explain the status of those lands. Prior to our discussion he was unaware of their existence or the importance they hold to the school children of our state.

Our meeting lasted just under an hour. Mr. Panetta told me that this was the first time he had been able to focus on this issue. He reiterated that he would make a recommendation to the President that afternoon. To Mr. Panetta's credit, he was very thoughtful in the questions he asked. He told me that he didn't like making decisions in a vacuum like this. At the conclusion of the presentation, Mr. Panetta said, "you make a very compelling case." To which I replied, "If this is compelling to you, then before the President sets aside part a piece of land equal to Rhode Island, Delaware and Washington, D.C. combined, he needs to hear the same information, directly from the Governor of the State." I was told Mr. Clinton was campaigning in Illinois and Michigan, but he would call me later in the evening.

Wednesday, September 18, 1996: At 1:58 a.m., my telephone rang, it was the President. The President told me that he was just then beginning to review this matter. I restated in short form the material I discussed with Mr. Panetta. The call lasted for nearly 30 minutes. At 2:30 a.m. we were both very tired. I offered to write a memo that the President could read when he woke in the morning. He asked that I write the memo.

I sat at the desk in my room and prepared a handwritten two plus page memo to the President. It was faxed to him at 4:00 a.m. that morning. The memo, told the President that if a monument was going to be created he should create a commission that included state and local government officials to recommend boundaries and to solve a number of management questions. I told him that it should work toward a policy that protects the land, preserves the assets and maintains the integrity of the public process. I knew the local government leaders in this area would welcome such a process.

At 7:30 a.m. I spoke with Mr. Panetta. He had reviewed the memo that was written for the President and again indicated he felt my ideas had merit. He said he would be reviewing the matter again with the President. Later in the morning Mr. Panetta called to inform me that the monument would be announced. He detailed the conditions of the action, which gratefully, incorporated some of my suggestions on water, wildlife access and a planning process with local and state participation.

At 2 p.m. Eastern time, President Clinton stood on the north rim of the Grand Canyon to announce the creation of the Grand Staircase-Escalante National Monument, a 1.7 million acre expanse in Utah's Garfield and Kane counties. No member of Congress, local official or the Governor were ever consulted, nor was the public. As the Governor, I had not seen a map, read the proclamation or for that matter even been invited. This is not about courtesy, it is about process and public trust. A major land decision, the biggest in the last two decades, was being made. Obviously, this is not the way public land decisions should, nor were ever intended to be made.

In 1976 this nation made an important public policy decision. Congress passed landmark legislation in the Federal Land Policy and Management Act (FLPMA), requiring great deliberation and careful process in determining how public lands would be used. That act, and other related legislation, contains protections for states and local communities. It is the policy of my administration to assure that our state is not denied those protections. We will defend Utah's interest against abuses of our existing protections and we will seek additional protections where they are currently inadequate.

The President's use of the Antiquities Act to create the monument was a clear example of inadequate protection. Our system of government was constructed to prevent one person from having that much power without checks or balances from

another source. This law was originally intended to provide emergency power to protect Indian ruins and other matters of historic importance. Over the past ninety years the federal courts have allowed a gradual expansion of the powers. The President's recent proclamation was a classic demonstration of why the founders of this nation divided power. Power unchecked is power abused. Utah and other states need protection from further abuses of the 1906 Antiquities Act. My administration will join other states in support of appropriate amendments.

Land preservation decisions must consider the relationship between the land and the local economy. The State of Utah intends to intensify our efforts in assisting in the promotion of new economic opportunities for the region and will challenge the national government to be responsive to the needs that its actions in Southern Utah have created. Historically, whenever the federal government has determined that a local interest is subordinate to the national interest, then some form of federal assistance is provided. We should all focus on developing real economic opportunities for rural Utah counties in order to build a more diversified and sustainable economy.

There are many issues surrounding the creation of this monument apart from the designation process. One of the most controversial and most complicated are the school trust lands located within the boundaries of the monument. Approximately 176,000 acres of school trust lands were included within the monument.

The school trust lands are managed by the Utah School and Institutional Trust Lands Administration, an independent state agency. The Trust Lands Administration is governed directly by a separate Board of Trustees, and is required to optimize the value of the lands for both the short and long term. The Chairman of the Board of Trustees will testify later today and will give more details. However, I want to emphasize that not only did the declaration of the monument possibly affect the use and value of the trust lands in the long term, but also that several sources of revenue from the lands, including an imminent multi-million dollar deal involving coal, have been eliminated as a result of the declaration.

The Board of Trustees, the Trust Lands Administration and myself are united in protecting the value of the trust lands within the monument and in protecting the purposes of the trust. We will work together to see that either the lands

can be used for their purpose as the national economy permits or that other federal assets will be available as compensation for the trust lands.

I appreciate the President's remarks concerning the trust lands at the time he signed the declaration and appreciate his decision to resolve any reasonable differences in value in favor of the school children as part of any land exchange proposal. However, I must express some healthy skepticism about the efficiency of the federal exchange or compensation process and the ability to bring such processes to conclusion at all. The problem of school trust lands within federal reservations like the monument is both an old problem and a constantly recurring one. Currently, Trust Lands and the federal government are negotiating several different exchange packages, including the statutorily authorized process mentioned by the President in his remarks (P.L. 103-93). These exchange processes are complex, heavily laden with federal rule-driven procedures and very costly to the trust. The Trust Lands Administration estimates that an exchange process for the monument lands, similar to that in P.L. 103-93, could cost 5 to 10 million dollars; a cost which, in all fairness, should be covered by the federal government.

I would hope that we can learn from past experience and begin to take advantage of new ideas or approaches which are more expeditious, yet fair to both parties. The Trust Lands Administration intends to propose solutions for the trust lands within the monument in the near future. I will ask Congress to give these proposals serious consideration and to consider appropriating funds to the Trust Lands Administration to offset any costs resulting from the declaration of the monument.

The State of Utah is committed to being a full partner in the planning process for the Grand Staircase - Escalante National Monument. Promises were made by both President Clinton and Secretary Babbitt which ensured the State a prominent role in the plan development and implementation process. The State of Utah intends to take full advantage of those commitments and has, in fact, already appointed five members of the planning team who will represent the State and its issues and concerns. We have every intention of being active participants in the process and committing the necessary resources to see that the Grand Staircase - Escalante National Monument best meets the needs of the citizens of the State of Utah. We intend to use every mechanism available to ensure that the federal government keeps its commitments to this end. We would appreciate your help in assuring that this happens.

In closing, I would like to reiterate to you my support for the idea of some kind of protection of the sensitive and spectacular lands of the Escalante area in Southern Utah. However, I feel deeply that President Clinton did not keep the public trust by choosing this process to protect this area. Had Mr. Clinton been willing to discuss his ideas with those of us in Utah involved in public lands issues, he would have found both State and local representatives ready and willing to work with his staff to provide the best protection of the natural resources of the area, while at the same time providing economic stability to those communities most impacted by it.

Obviously, this did not happen. President Clinton was unwilling to reveal his plan to any elected officials in Utah. Perhaps the only thing more disappointing than this was his consultation with elected officials in other Western States, but NOT in Utah, about this proposal. I have seen a copy of an August memo from Kathleen McGinty to Marcia Hale regarding contact with Governors Roy Romer and Bob Miller, former Governors Mike Sullivan and Ted Schwinden, Senators Harry Reid and Richard Bryan, and Representative Bill Richardson to get their reactions on this proposed "Utah event." The memo states that these reactions and other factors, "will help determine whether the proposed action occur(s)." In addition, the memo states, "If a final decision has been made on the event, and (sic) any public release of the information would probably foreclose the President's option to proceed." The event was a partisan, political rally that had been planned and executed as an "under the cover of darkness" surprise.

I find it regrettable that someone we have entrusted to the highest office in the United States of America is willing to undertake a process which is purely partisan. We, as a nation, need to examine the power by which a single person is able to impact the lives of so many. It is too late for residents of Southern Utah living near the Grand Staircase - Escalante National Monument. However, in true Utah tradition, we will pull together and rise above the circumstances created by those in Washington.

Testimony of Kathleen A. McGinty
Chair, Council on Environmental Quality

before the

Subcommittee on National Parks, Forests, and Lands
Committee on Resources
U.S. House of Representatives

April 29, 1997

Mr. Chairman and members of the Subcommittee, I wish to thank you for the opportunity to present testimony concerning the Grand Staircase-Escalante National Monument.

By way of introduction, I am Kathleen McGinty, Chair of the White House Council on Environmental Quality. Among other duties, I advise and consult with the President and Vice President on environmental and natural resource policy matters. As I have testified on previous occasions, I was directly involved in the President's decision to establish the Grand Staircase-Escalante National Monument.

I understand that different people have different views of the lands in the monument. For my part, I have never seen a place as beautiful, as wild, as close to the hand of God. The Earth's own history is openly told as nowhere else in the canyons and plateaus, slickrock and sandstone. The history of courageous, resourceful people graces the land. In a continent of rising noise, urbanization, and busy-ness, I think this remote, quiet, often austere federal land deserved protection. But I respect the views of others, including some of those here today, who saw other values in the land.

I also understand that different people have different views of the President's proclamation itself. For my part, I think that establishment of the monument was one of the most profound and appropriate acts of land stewardship ever taken in this Nation. It is an understatement to say the lands contain objects of scientific or historic interest, as the Antiquities Act requires. Conservation of the lands has been hotly debated for decades, and, by last year, the lands were in real jeopardy. The President exercised his authority, despite potential political risk, to assure their continued protection. He protected the land and the traditional uses of the land, such as grazing and hunting, that are central to the area's rural values and quality of life. I think the President did exactly the right thing. But, again, I respect the views of others, including some of those here today, who see the monument proclamation differently.

You have asked me to come before the Committee to describe how the monument proclamation came to be, and I am pleased to do so. That said, I believe that the most important testimony I can give is my commitment to this Congress, to the other witnesses, and to the many people they represent that this Administration will do what it takes to implement the President's proclamation

in a timely, fair, and respectful way -- a way that is true to that astonishing and difficult land and to the people who, despite different priorities, all care deeply about it.

Mr. Chairman, I have been pleased to respond to requests from the Resources Committee and members of the Utah delegation for documents from the Council on Environmental Quality's files that bear on the President's establishment of the monument. As my letter of April 23rd and subsequent conversations with Chairman Young made clear, I hope and fully intend to work with you and your staff to identify appropriate means to ensure that you can review every responsive document.

The record chronicled in those documents tells a simple and straightforward story.

Protection of federal lands and resources has been a priority for this Administration since our first days in office. Their protection remains a priority today.

Federal land issues in Utah were not often in the national spotlight during the first two years of the Administration. Wilderness legislation, though introduced, was not moving. Other public land issues had more prominence.

That status changed, however, with the advent of the 104th Congress. As with so many other environmental and natural resource management issues, the Administration found itself presented with legislative proposals we could not support and many that, in fact, we strongly opposed.

Throughout 1995, the Administration heard from thousands of concerned Americans opposing legislation they feared would reduce existing protections for federal lands in Utah or elsewhere. Numerous parties inside and outside government openly discussed and urged use of the President's authority under the Antiquities Act and the President's power to veto legislation as the principal tools available to him to influence or stop legislation potentially harmful to public lands.

Throughout late 1995 and early 1996, Congress and, in turn, the President brought increasing attention to public land issues in Utah, largely in connection with Congressional efforts to enact wilderness legislation. Indeed, in November 1995, the *Salt Lake Tribune* covered the emerging debate in a story headlined "Utah Wilderness Battle becoming a U.S. Issue." Editorials ran in many national and regional papers sharply condemning the proposed legislation. *USA Weekend* profiled the issue twice.

The Interior Department repeatedly testified that the agency would recommend that the President veto the Utah delegation's proposed legislation. In December 1995, the Office of Management and Budget elevated the issue by sending the Congress a Statement of Administration Policy that conveyed the Administration's many objections to the bill and making clear that, if presented to the President for his signature, the Secretary of the Interior would recommend a veto.

The President's concern over this issue intensified. In March 1996, the Office of Management

and Budget advised the Congress in a Statement of Administration Policy that the Secretary of the Interior would recommend even a veto of the Omnibus Parks bill itself -- pending legislation containing many provisions that were Administration priorities strongly supported by the President -- if the bill included the proposed Utah legislation. In the same month, the Vice President issued a statement underscoring the President's determination on this front and strong opposition to the bill because it would, among other things, "strip away protections from millions of acres of existing Utah wilderness."

White House staff briefly considered use of the Antiquities Act to protect federal land in Utah during March and April of 1996, specifically in the context of a possible Earth Day announcement. The idea was set aside in order to focus specifically on protection of our national parks, some of which were, as this Committee is aware, then being proposed for sale.

The President's focus on southern Utah lands reflected widespread concern that proposed coal mining in the area could irreversibly damage federal lands and resources, including potentially some of the most remote, beautiful, historic, and ecologically intact areas in the lower 48. The prospect of extensive mining and related environmental damage was reinforced by provisions within the proposed Utah lands legislation that would have transferred more than 50,000 acres of federal land on the Kaiparowits Plateau to the State of Utah specifically to promote mining.

Coal companies and speculators had tried before to develop the Kaiparowits and nearby coal fields, but had always backed away because of strong national opposition to mining in the area and unfavorable economics. It bears mention that the federal government has never turned down any proposal to develop Kaiparowits coal. Every proposal has disappeared because economically viable operations could not be developed.

Despite this history, Andalex Resources, alone among the three remnant federal coal leaseholders on the Kaiparowits, seemed determined to mine and was actively pursuing Interior Department approval for its operations. The President wanted to ensure that any mine that might eventually go forward, including all associated features such as roads and power lines, would be subject to the highest possible standards of environmental review. It was thought that a monument designation could help provide that assurance.

In June 1996, the President decided to ask the Secretary of the Interior, serving in his role as staff to the President, for advice on whether there were federal lands in southern Utah that were eligible and appropriate for protection under the Antiquities Act.

I relayed the President's request orally to Interior Solicitor John Leshy at a meeting in my office on July 3, 1996, and the President spoke directly to Secretary Babbitt over the July 4th weekend. This request was restated by the President in writing on August 7th.

In response to the President's request, the Interior Department conducted an analysis and prepared a recommendation on federal lands in Utah suitable for designation under the Antiquities

Act. The Department's review was completed in mid-August and his recommendation was transmitted on August 15th. The recommendation included a description and map of the lands and resources suitable for designation under the Antiquities Act, a draft proclamation, and extensive supporting documentation.

The Antiquities Act provides the President with executive authority to set aside federal lands as national monuments in order to protect objects of scientific or historic interest. The authority has been used more than 100 times in the last ninety years, and served as the basis for creation of many of the Nation's most important protected areas. Many national parks in the West, including most in Utah, were originally set aside under the Antiquities Act. For example, Grand Canyon, Grand Teton, Arches, Capitol Reef, Cedar Breaks, Dinosaur, Natural Bridges, and Zion were originally protected by presidential orders issued under the Antiquities Act. Since early this century, every President except Presidents Nixon, Reagan, and Bush have established national monuments.

The Department's recommendation to the President was that approximately 1.7 million acres of federal land managed by the Bureau of Land Management in southern Utah be designated as the "Grand Staircase-Escalante National Monument."

Three general areas lying to the west of the Colorado River and to the east of Bryce Canyon National Park would be covered by the proposed new monument: the Grand Staircase, Kaiparowits Plateau, and the Escalante Canyon region. The Department's analysis showed that the lands in question presented a unique combination of archaeological, paleontological, geologic, and biologic resources in a spectacular natural ecosystem.

The Grand Staircase spans six major life zones, from lower Sonoran desert to Arctic-Alpine forest, and its outstanding rock formations present some four billion years of geology. The area includes numerous relict plant areas -- rare examples of pristine plant communities that represent the natural vegetative cover that existed in the region before domestic livestock grazing.

The Kaiparowits Plateau includes world class paleontological sites, including the best and most continuous record of Late Cretaceous terrestrial life in the world. The area includes thousands of significant archaeological sites, including the remnants of at least three prehistoric Indian cultures. The Kaiparowits includes the most remote site in the lower 48 states.

The Escalante Canyon region includes some of the most scenic country in the West, significant archaeological resources, unique riparian ecosystems, and numerous historic sites and trails.

The Department's recommendation made clear that the proposed proclamation would apply only to federal lands. Private and state-owned parcels would be excluded from the monument. The new monument would be subject to valid existing rights, but would preclude new mining claims in the area. Andalex Resources' leases and others would remain valid, but their exercise would be analyzed with regard to the possible impact on the objects of historic and scientific interest in the

monument area. No new federal water rights were reserved as a matter of law by the proclamation.

The proposed proclamation departed from prior practice by retaining the management responsibilities of the Bureau of Land Management. Finally, the Department recommended that the President set a three-year deadline for completion of a new comprehensive management plan for the area.

I strongly supported the Department's recommendation and argued that adoption of the recommendation would be a courageous act likely to elicit broad national approval. I also advised the President that elected officials from Utah would oppose establishment of a monument and that there were some political risks in proceeding.

Between mid-August and early September, there was general discussion among the President's staff regarding the Department's recommendation and review of the voluminous documentation he provided. Various options were discussed over time concerning how, if accepted, the recommendation might be announced.

In late August and early September, at least two press accounts emerged that reported, in essence, that the President was reviewing the Department's recommendation. During the same time period, the President and many of his senior staff and cabinet had numerous conversations with members of Congress and their staffs, governors, and other interested parties about the issue. These conversations continued until September 18, 1996, the day the President issued the proclamation establishing the monument.

The President made his decision to use his authority to establish the monument only after speaking directly with or otherwise being made fully aware of the perspectives of Utah officials and many, many others.

The President's proclamation reflects the broad range of advice he received, considered and balanced.

On September 18th, President Clinton acted to protect the federal lands, resources, and objects encompassed by the boundaries of the Grand Staircase-Escalante National Monument. But in so doing, he also took steps to avoid impacting state water rights, and hunting and fishing. Existing grazing permits, leases, and levels would not be affected. He adopted and went beyond the measures recommended by the Department. He committed his Administration to land exchange measures benefiting Utah schools. He directed the Secretary of the Interior to establish an unprecedented partnership with the State of Utah. He mandated a broad, open public planning process to shape the future of the monument. And he has followed up these commitments with funding and budget requests needed for implementation.

Members of this Committee know well that, for decades, people of good will and divergent

opinions have debated the proper management of federal lands in Utah. The issue has moved in and out of the spotlight, sometimes prominent, sometimes not, but it has never left the national stage and local and national questions have remained unresolved for two generations.

The President's establishment of the Grand Staircase-Escalante National Monument assured Americans from Utah and elsewhere that they could continue to use and enjoy the area essentially as they always have. But in addition the President put forward the mechanism to break loose a large and important area of federal lands in Utah from the otherwise prevailing gridlock.

Today, this Administration, the State of Utah, Utah residents and interested Americans from around the country are commencing the critical work of deciding how lands within the Grand Staircase-Escalante National Monument are to be managed for the generations of Americans who will follow us.

The collaborative intergovernmental planning process mandated by President Clinton and now overseen by Secretary of the Interior Bruce Babbitt is a fair, open venue for resolution of questions that have evaded answers for most of this century. Reflecting the breadth and balance of the President's proclamation, this process has ample room to safeguard rural community values and the land itself. In this regard, I would like to acknowledge and commend the leadership of Governor Leavitt, who is personally engaged in this effort and has committed his own time and top staff to ensure that this effort gets underway in a very positive manner indeed.

Discussions regarding possible exchange or transfer of state and private parcels within the monument are proceeding on a separate track, with timing, sequence, and priorities being set through mutual agreement of the parties.

Land trades are challenging, but we can and should take encouragement from the fact that the same parties and institutions who will work through the monument-related exchanges are already working together on the exchanges subject to the 1993 Utah land exchange legislation. The fact that the federal government has been able immediately to agree to the great majority of independent appraisals under that Act is a very positive sign.

The President and his Administration are committed to do everything possible to assure timely and successful conclusion of the joint state-federal planning process, implementation of its recommendations, and resolution of land exchange needs.

It is good news for all those who have a stake in the future of the monument that government now, in the final years of the 20th century, is moving forward to frame the plan that will guide use of these lands in 21st century. The President's leadership in establishing the Grand Staircase-Escalante National Monument on the terms he set has meant that gridlock has been replaced by dialogue, deadlines, and deliverables.

The President set the foundation for progress, and people of good will are coming together to build on that foundation. We are committed to support this effort and see it through to a successful conclusion.

Thank you, Mr. Chairman and members of the Committee. I would be pleased to respond to your questions.

**STATEMENT OF SECRETARY OF THE INTERIOR BRUCE BABBITT
OVERSIGHT HEARING ON THE GRAND STAIRCASE-ESCALANTE
NATIONAL MONUMENT FROM DESIGNATION TO MANAGEMENT
BEFORE THE
HOUSE RESOURCES SUBCOMMITTEE
ON NATIONAL PARKS AND PUBLIC LANDS**

**APRIL 29, 1997**

Good morning, Mr. Chairman, and thank you for inviting me to appear before the Subcommittee this morning regarding the establishment, planning, and future management of the Grand Staircase-Escalante National Monument.

The newest of our National Monuments is a magnificent place, a rugged treasure trove of geologic wonders, ancient historic sites, biological diversity, and a rich fossil record dating to the Late Cretaceous Era.

I strongly believe President Clinton did the right thing in establishing the Grand Staircase-Escalante. I also believe that future generations of Americans will agree with that judgement, including the citizens of Utah. However, I respect and understand the views of the Chairman and other members of the Utah Congressional delegation, who disagreed with that opinion last September, and who continue to disagree today.

Now it is time to move forward, regardless of one's views on the President's proclamation. And that is exactly what we are doing. We want to hear all voices and take all views into account as we move forward to establish a management framework for the very first Bureau of Land Management National Monument.

We have been and will be listening to the people in the towns and communities

surrounding the Monument, to mayors and county commissioners, business people, users of the outdoors, and concerned citizens of every stripe and variety. Each of us has a stake in bringing about the best possible outcome for Utah and its citizens, and for the management of the public lands owned by all Americans.

I am pleased to see Governor Mike Leavitt here today. He and I have spoken on several occasions about the importance of making this Monument a success, for Utah and the country. I know he did not support the President's action, and I suspect he will recall that this morning. Today, however, we are determined to work together in innovative ways to pool all relevant information about the land and the resources within the Monument, protect the environment and the special treasures of the Grand Staircase-Escalante, help citizens and local government participate in the management plan, and encourage economic development in the towns surrounding the Monument.

One of our first tasks has been to assemble a monument management team, under the able leadership of Jerry Meredith, one of our finest managers, and a longtime and respected BLM employee from the state of Utah. I asked the Governor if he might be interested in contributing three or four people on his staff to work full time on the BLM's 15 member Monument planning team for the duration of the project, thus giving the State an unprecedented opportunity to contribute from the earliest stages. He offered five: a geologist, a biologist, a paleontologist, an historian, and a community economic development planner. We agreed, and they have already begun to arrive in Cedar City, working side by side with our federal employees.

I also see that Kane County Commissioner Joe Judd is here today. Joe and I met recently, not to highlight our disagreements, but to agree that the time had come to work in partnership for

the interests of all our constituents. When people who have disagreed in the past make good faith efforts to find common ground and move forward together, I think it's important to reward those efforts and encourage them.

Together, we have worked to develop a cooperative agreement with Kane County that will help both the county and the BLM as we move forward to forge a Monument plan that will both protect the resources of the Monument and help the local economy. I hope that a similar cooperative agreement might be established with Garfield County, and that its citizens might benefit from the new spirit of partnership which has already begun next door.

Mr. Chairman, I recommended to the President that the Grand Staircase-Escalante become the first Monument managed by the Bureau of Land Management. I did so for several reasons, none of which reflected any dissatisfaction with the National Park Service, which has a superb record of managing 73 National Monuments across the country.

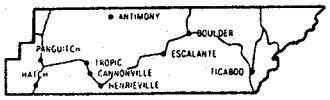
I believe the time has come to both give a vote of confidence in, and a challenge to, the BLM. In doing so, we are saying that when we decide that special areas of the public lands are deserving of special treatment, we will not always take those lands away from the BLM to be given to another agency. I believe that part of the BLM's mission and capability involves protecting and managing high conservation value lands, including many of the gems of America's public lands.

All of the land contained in the Monument was already publicly-owned and managed by the BLM. By retaining management within the agency, we have hit the ground running, and all those in the area already have a working familiarity with the land managers. By creating the first BLM National Monument, we have a chance to develop a process and a plan tailored to the

circumstances within and surrounding the Grand Staircase-Escalante. Our message to all those who care about these lands is simple: come join us in building an innovative model for land management for the future. We have an enormous opportunity here; it's up to all of us to make the most of it.

# GARFIELD COUNTY

County Commissioners
Louise Liston
D. Maloy Dodds
Clare M. Ramsay
Camille A. Moore,
Clerk/Auditor




55 South Main Street, P.O. Box 77 • Panguitch, Utah 84759
Ph. 801-676-8826 • Fax 801-676-8239

Tom Simkins, Assessor
Judy Henrie, Treasurer
Than Cooper, Sheriff
Wallace A. Lee, Attorney
A. Les Barker, Recorder
John W. Yardley,
Justice of the Peace

STATEMENT FOR THE RECORD

OF

LOUISE LISTON, COUNTY COMMISSIONER
GARFIELD COUNTY, UTAH

REGARDING

THE GRAND STAIRCASE-ESCALANTE
NATIONAL MONUMENT
OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON
NATIONAL PARKS AND PUBLIC LANDS

THE HONORABLE JAMES HANSEN, CHAIRMAN

APRIL 29, 1997
WASHINGTON, D.C.

GOOD MORNING, MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. I WOULD LIKE TO THANK YOU FOR THIS OPPORTUNITY TO TESTIFY BEFORE YOU TODAY REGARDING THE DESIGNATION OF THE NATION'S NEWEST MONUMENT.

I AM A COMMISSIONER FROM GARFIELD COUNTY, ONE OF THE TWO SOUTHERN UTAH COUNTIES SERIOUSLY AFFECTED BY THE PRESIDENT'S ACTION. I AM GRAVELY CONCERNED ABOUT WHAT IS HAPPENING TO RURAL COMMUNITIES IN THE WEST WHO RELY HEAVILY ON NATURAL RESOURCES FOUND ON THE NATION'S PUBLIC LANDS TO SUSTAIN THEIR LOCAL ECONOMIES.

DURING THE PAST FOUR YEARS OF THE CURRENT ADMINISTRATION THOSE COUNTIES ARE BEING PUSHED CLOSER AND CLOSER TO THE EDGE, AND AS THAT HAPPENS, THE BATTLE BECOMES MORE FIERCE AND HEATED. BECAUSE OF LOCATION, PRESENT LACK OF FUNDS TO IMPROVE INFRASTRUCTURE, LIMITED OPPORTUNITIES TO DIVERSIFY, AND INABILITY TO ATTRACT STABLE, WELL PAYING JOBS, MOST RURAL COMMUNITIES ARE STRUGGLING TO SURVIVE. LOCAL CUSTOM AND CULTURE ARE SYSTEMATICALLY BEING DESTROYED BY LAND MANAGEMENT DECISIONS AND ENVIRONMENTAL SCARE TACTICS. COMMUNITY MORALS ARE LOW, AND WE ARE EXPERIENCING AN ALARMING INCREASE IN SPOUSE AND CHILD ABUSE, AND ESCALATING OCCURRENCES OF ALCOHOL AND DRUG ABUSE. THE NUMBER OF SUICIDES FROM THE AGES OF 16 TO 28 IN A RECENT SOUTHWEST DISTRICT HEALTH REPORT SHOWS SOUTHERN UTAH COUNTIES FAR ABOVE THE STATE AVERAGE. OUR YOUNG PEOPLE IN RURAL AREAS FEEL THAT THE FREEDOMS GUARANTEED THEM BY THE CONSTITUTION ARE BEING VIOLATED MORE AND MORE BY FEDERAL RESTRICTIONS, REGULATIONS AND DESIGNATIONS THAT ARE PERCEIVED AS DESTROYING THEIR ABILITY TO FIND JOBS, BUILD HOMES, AND PLAN FOR A SUCCESSFUL MARRIAGE AND FUTURE.

THE CITIZENS OF GARFIELD AND KANE COUNTY HAVE SHARED THEIR SCENIC BEAUTY WITH THE WORLD AND BORN THE MONETARY BURDEN OF THAT RESPONSIBILITY FOR DECADES. IN RETURN FOR OUR GOOD WILL EFFORTS WE FEEL THAT WE, ALONG WITH THE SCHOOL CHILDREN OF UTAH HAVE BEEN LAID UPON THE SACRIFICIAL ALTAR BY A PRESIDENT WHO, WITH THE STROKE OF A PEN AND THE WINK OF AN EYE, LOCKED UP A TREASURE HOUSE OF NATURAL RESOURCES WITH PROMISES THAT CAN NEVER BE KEPT.

OVER 98% OF GARFIELD COUNTY IS STATE AND FEDERALLY OWNED. THREE NATIONAL PARKS, A NATIONAL RECREATIONAL AREA, THREE STATE PARKS, AND ALL OR PORTIONS OF 18 WILDERNESS STUDY AREAS ARE LOCATED WITHIN ITS BOUNDARIES. WITH A MEAGER 1.3% OF THE COUNTY'S LAND BASE LEFT TO GENERATE TAXES FROM AND A POPULATION OF 4,000 WE ARE PROVIDING SERVICES FOR OVER THREE MILLION VISITORS USING THOSE PUBLIC LANDS. RUNNING A COUNTY SO IMPACTED IS NOT EASY. CONGRESSMEN AND RESIDENTS IN EASTERN STATES WHERE FEDERAL OWNERSHIP SELDOM EXCEEDS TWO OR THREE PERCENT CANNOT BEGIN TO COMPREHEND THE IMPACTS BEING PLACED UPON LOCAL GOVERNMENTS AND LOCAL ECONOMIES THAT RELY UPON THE LAND FOR THEIR SURVIVAL. ADD TO THAT THE DESIGNATION OF A NEW MONUMENT THAT IS ALREADY CREATING SERIOUS PROBLEMS: A PHOTOGRAPHER STRANDED FOR EIGHT DAYS LAST FALL, STRANDED VISITORS TRAVELING THE NUMEROUS

DIRT ROADS IN RENTAL CARS IN RECENT SNOW STORMS, A TRAGIC ACCIDENT INVOLVING FOUR YOUNG LADIES WHICH REQUIRED THREE OF OUR FOUR COUNTY AMBULANCES, SEVERAL VOLUNTEER EMT'S, LAW ENFORCEMENT OFFICERS, A FIRE TRUCK EQUIPPED WITH "JAWS" TO CUT ONE VICTIM OUT OF THE WRECKED VEHICLE, AND TWO HELICOPTERS TO LIFE FLIGHT TWO MORE TO SALT LAKE CITY HOSPITALS.

THE BLM AREA OFFICE IN ESCALANTE IS AVERAGING 76 TELEPHONE CALLS A DAY ASKING ABOUT THE MONUMENT. THE ESCALANTE CHAMBER OF COMMERCE WEB SITE ON THE INTERNET RECEIVED 2,000 HITS IN FEBRUARY REQUESTING INFORMATION ABOUT THE MONUMENT, AND THAT NUMBER HAS INCREASED DURING MARCH AND APRIL. WITH INTEREST THAT OVERWHELMING THIS EARLY IN THE TOURIST SEASON, WE PERCEIVE THE RESULTING IMPACTS WILL BE DEVASTATING TO OUR MEAGER BUDGET, AND WILL PLACE US IN A POSITION OF EXTREME HARDSHIP TO PROVIDE THE NECESSARY SERVICES THAT VISITORS NOT ONLY EXPECT, BUT DEMAND. LOCAL GOVERNMENT SHOULD NOT HAVE TO BEAR THAT BURDEN ALONE, ESPECIALLY WHEN THEY HAD NO INPUT INTO THE INITIAL PROCESS THAT CREATED THE MONUMENT.

WE FEEL THAT THE CREATION OF THIS MONUMENT WAS DELIBERATELY FABRICATED BEHIND CLOSED DOORS WITHOUT CONSULTING OR NOTIFYING ANY MEMBER OF THE UTAH CONGRESSIONAL DELEGATION, THE GOVERNOR, OR ANY LOCAL GOVERNMENT OFFICIAL, AND QUITE HONESTLY, QUESTION ITS MERITS. YET WE ARE NOW FACING THE REALITIES OF THAT DESIGNATION ON A DAILY BASIS AND THE IMPACTS THAT MILLIONS OF VISITORS WILL BRING. WE WILL HANDLE THEIR WASTE, PROVIDE LAW ENFORCEMENT SERVICES, EMERGENCY SERVICES, SEARCH AND RESCUE, TRY THEIR CRIMINAL CASES IN OUR COURTS, AND MAINTAIN SAFE ROADS FOR THEM TO TRAVEL ON TO RECREATE ON THE NATION'S PUBLIC LANDS, ALL ON A VERY LIMITED BUDGET THAT IS BEING FURTHER ERODED AWAY BY LOSS OF TAXES GENERATED BY STABLE INDUSTRIES THAT NO LONGER EXIST.

MR. CHAIRMAN, THE ECONOMIC, SOCIAL AND ENVIRONMENTAL CONCERNS FACING PUBLIC LAND COUNTIES TODAY ARE OVERWHELMING. UNFUNDED MANDATES HANDED DOWN FROM STATE AND FEDERAL GOVERNMENTS DEMAND THAT WE PROVIDE MORE AND MORE SERVICES WITH LESS AND LESS ABILITY TO DO SO. THOSE SERVICES HAVE INCREASED SUBSTANTIALLY IN COST OVER THE PAST TWENTY YEARS, BUT THE FEDERAL GOVERNMENT HAS REFUSED TO DO THEIR PART IN HELPING RELIEVE THAT BURDEN. IT SEEMS CONGRESS CAN APPROVE MILLIONS OF DOLLARS TO BUY UP MORE AND MORE PRIVATE PROPERTY FOR PARKS AND OTHER PURPOSES, BUT COUNTIES IMPACTED BY PUBLIC LANDS IN THEIR BORDERS CONTINUE TO BE IGNORED.

IT IS VERY DESTRUCTIVE WHEN THE FATE OF A REGION IS DETERMINED BY THE PEOPLE WHO DON'T LIVE THERE AND HAVE TO LIVE WITH THE DIRECT IMPACTS OF THEIR DECISIONS. I HAVE OFTEN USED A QUOTE OF YOURS, MR. CHAIRMAN, WHICH STATES, "THE PEOPLE WHO LIVE NEAR PUBLIC LANDS ARE THOSE MOST AFFECTED BY DECISIONS REGARDING THOSE LANDS. THEY HAVE A RIGHT TO EXPECT THAT THE PUBLIC LANDS NEAR THEM WILL BE MANAGED AS MUCH OR MORE FOR THEIR BENEFIT AS FOR THOSE WHO NEVER HAVE BEEN WEST OF THE MISSISSIPPI RIVER."

IN THEIR NOBLE QUEST TO SAVE THE ENVIRONMENT, A COALITION OF POWERFUL SPECIAL INTEREST GROUPS AND A PATRONIZING CONGRESS HAVE

FORGOTTEN THAT THE PROTECTION AND MANAGEMENT OF OUR PUBLIC LANDS ARE BEST ACCOMPLISHED ON A LOCAL LEVEL BY THE PEOPLE AND AGENCIES WITH THE KNOWLEDGE AND EXPERTISE TO ACHIEVE THE DESIRED RESULTS. PERMIT ME TO QUOTE FROM SECRETARY BABBITT'S REMARKS CONCERNING THE RANGELAND REFORM ACT, "THOSE CLOSEST TO THE LAND...THOSE WHO LIVE ON THE LAND...ARE IN THE BEST POSITION TO CARE FOR IT." WHY THEN IS A CONGRESSMAN FROM NEW YORK INTRODUCING A UTAH WILDERNESS BILL WHICH TOTALLY IGNORES 15 YEARS OF ON THE GROUND STUDY AT A COST OF MILLIONS OF TAXPAYER DOLLARS, WITH LITTLE OR NO THOUGHT OR FEELING ON THE DEVASTATING EFFECTS IT WILL HAVE ON FAMILIES, LOCAL ECONOMIES, SCHOOLS, AND LIVELIHOODS.

WE IN THE WEST ARE TIRED OF HAVING OUR DESTINY DECIDED BY GREEDY PRESERVATIONISTS AND A CONGRESS SYMPATHETIC TO THEIR CRIES OF WOLF. WE TAKE OFFENSE WHEN ACCUSED OF ABUSING THE LAND AND DESTROYING ITS BEAUTY, WHEN INDEED, WE HAVE BEEN SUCH CARING STEWARDS THAT THE LAND IS BEAUTIFUL ENOUGH TO BE DECLARED A "NATIONAL TREASURE". THE PRESENT DEBATE OVER THE BEAUTIES OF NATURE AND WHAT OUR PUBLIC LANDS SHOULD LOOK LIKE HAS PITTED COMMUNITIES AND FAMILIES AGAINST A DECEPTIVE ADVERSARY CALLED THE ENVIRONMENTAL MOVEMENT. THAT DEBATE MAY NEVER BE SETTLED, BUT THERE WILL BE CASUALTIES, NAMELY, COMMUNITIES, FAMILIES, AND YES, PERHAPS EVEN NATURE, BEFORE WE ALL COME TO REALIZE THAT WE MUST ALWAYS CONSIDER THE PEOPLE AND THE ENVIRONMENT TOGETHER, AS THOUGH THEY ARE ONE, BECAUSE THE HUMAN NEED TO USE NATURAL RESOURCES IS FUNDAMENTAL TO OUR VERY PRESENCE ON THIS EARTH.

THE VAST MAJORITY OF AMERICANS ARE CONCERNED ABOUT THEIR ENVIRONMENT, HOWEVER THEY ARE ALSO CONCERNED ABOUT MAKING A LIVING AND PROVIDING FOR THEIR FAMILIES. ONLY BY ACHIEVING A BALANCE CAN WE HOPE TO PRESERVE BOTH THE LAND AND THE PEOPLE.

IN CONCLUSION, I SEE A WAY OF LIFE NURTURED BY GENERATIONS OF HARD WORKING, DEDICATED STEWARDS OF THE LAND SYSTEMATICALLY BEING DESTROYED BY SCHEMING, SELFISH SPECIAL INTEREST GROUPS WHOSE FUNDING IS GENERATED BY LIES AND DECEIT, AND BY AN ADMINISTRATION SO OUT OF TOUCH WITH THE BASIC PRINCIPLES OF DEMOCRACY THAT THEY ARE WILLING TO SACRIFICE PEOPLE IN THE GUISE OF PRESERVING THE LAND.

I SEE FAMILIES WHO INSTILL IN THEIR CHILDREN THE MORAL VALUES AND WORK ETHICS THAT WERE ONCE THE FOUNDATION OF THIS GREAT NATION BEING DEPRIVED OF THEIR LIVELIHOODS WITH NO PROMISE OF A FUTURE.

I SEE AN INCREASING NUMBER OF AMERICANS WHO ARE CONTENT TO LIVE ON WELFARE CHECKS FROM THE GOVERNMENT AND HISTORY CRIES OUT THAT THAT IS A DANGEROUS PATH TO TROD.

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, ONCE AGAIN THANK YOU FOR THE OPPORTUNITY TO ADD MY TESTIMONY TO THIS OVERSIGHT HEARING. IT IS MY HOPE THAT A MANAGEMENT PROCESS FOR THE MONUMENT WILL EVOLVE THAT WILL BENEFIT MY COUNTY, THE STATE OF UTAH AND THIS GREAT NATION AND ITS PEOPLE, THAT YOU WILL FAIRLY CONSIDER ALL FACTORS AND CONFLICTS AND STRIKE A BALANCE BETWEEN PRIMITIVE RECREATION AND OTHER MULTIPLE USES OF THE RESOURCES FOUND THERE.

THANK YOU

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ts were made also loore and Sheriff wing an apparent Panguitch on the e road. Trampas f Wales, Utah was ault disorderly. ale juvenile, age 16 as referred to juve- isorderly conduct.

City Police Officer nd Garfield County Cooper reported ar- individuals at 11 esday, Mar. 19 fol- parent fight. Mi- 20, of Panguitch and booked on orderly conduct and or supply of alcohol essie Price,18, also was arrested on dis- ct and a male juve- f Panguitch was re- nile court for disor-

fears an important way of life in the small communities in Garfield and Kane Counties will be lost.

Shakespear also irrigates approximately 100 acres of hay land in East Valley, located just to the east of the town of Tropic.

The Canyonlands SCD represents eastern Garfield & Kane Counties and is a locally elected

Photo By Rebecca Bales

**'Funny shape for an Easter egg," little Sam Mecham seems to be saying as he reaches for a Tootsie Roll to add to his basket at last week's annual Lions Club Easter Egg Hunt at the Cannonville Town Park. Sam is the son of Harvey and Camille Mecham of Tropic.**

# Four Suffer Injuries On Highway 12

ESCALANTE — Four young women whose car rolled as they headed for Escalante after coming off the "Blues" on Highway 12 are alive to tell about it after their accident challenged the county's emergency response teams to the fullest on Thursday, Mar. 27.

Curt Richins and son Shawn Coleman also traveling toward Escalante, were among the first passersby on the scene of the 5:15 p.m accident at Milepost 42. Richins, a Search and Rescue team member, radioed for help.

Escalante Police Chief Sandie Hitchcock helped to relay information between the Garfield County Sheriff's dispatch center in Panguitch and the accident scene where radio reception was extremely poor. But the word got out and three ambulances were dispatched to the scene.

Amy Hardy, 20, Sandy, the driver, was thrown from the 1989 Mazda that, according to Utah Highway Patrol Trooper Jim Keller who investigated, had been traveling at excessive speed. The vehicle had gone off the right side of the road and, when the driver overcorrected, it slid off the left side, rolling one and three-quarters times before coming to rest.

Hardy was ejected, suffering serious head injuries, a punctured lung, and arm and leg fractures. Erica Oliphant, 19, Sandy, was also ejected. She sustained a dislocated hip and various cuts and bruises. Emily Hardy, 17, sister to Amy, was removed from the vehicle with head and other injuries. The fourth occupant, Gwen Allen, 22, Orem, was trapped in the front passenger seat. Members of the Escalante Fire Department who had arrived on the scene with extrication equipment had to remove the top of the car in order to remove the victim. She suffered head, neck and arm injuries.

As ambulances and Emergency Medical Technicians began arriving on the scene, all were pressed into service, as well as passersby who had stopped to offer help.

Although the Escalante ambulance was first on the scene, its personnel were busy attending victims, so the moment that the Bryce Mountain ambulance arrived, Amy Hardy was placed on board along with her sister Emily and they were rushed toward Garfield Memorial Hospital in Panguitch, 50 miles away.

Sheriff's Dispatcher Mike Owens had called for Classic Helicopters emergency helicopter out of Page, Ariz, which rendezvoused with the ambulance in Cannonville. Amy Hardy was whisked to Dixie Regional Medical Center in St. George where she was stabilized before being flown to LDS Hospital in Salt Lake City where her condition in the hospital's shock-trauma unit was grave at the outset. By Tuesday night, her condition at the Salt Lake City hospital was listed as fair.

Gwen Allen, the next most seriously injured, was transported in the Escalante ambulance to Garfield Memorial Hospital where she, too, was subsequently life-flighted to Utah Valley Regional Medical Center in Provo. Hospital personnel reported her condition on Tuesday night as stable.

Erica Oliphant was transported in the Bryce Valley ambulance to the hospital in Panguitch where both she and Emily were released by Sunday night.

A number of EMT's from Escalante, the Bryce Valley area, Bryce, and Bryce Canyon were at the scene assisting, as well as Search and Rescue team members, and volunteers of the Escalante Fire Department. Also assisting at the accident scene was Physicians Assistant Bob McCullough, who traveled in the ambulance with Amy and Emily Hardy to the helicopter rendezvous site in Cannonville where Amy was transferred to the helicopter and Emily continued on to the hospital with Emily Hardy in the ambulance.

Parents of the injured girls expressed their gratitude for the emergency care rendered to their daughters and Trooper Keller echoed their words with high praise for the fine work by all of the county's volunteer emergency personnel.

Garfield Co. News
April 3, 1997

**Statement of Commissioner Joe Judd**

**on behalf of the Kane County, Utah Commission**

**before the Subcommittee on National Parks and Public Lands**

**House Resources Committee**

**April 29, 1997**

Mr. Chairman and members of the Subcommittee on National Parks and Public Lands; on behalf of the Commission and people of Kane County, I want to thank you for inviting me to testify regarding the impacts of the designation of the Grand Staircase-Escalante National Monument.

First, let me say that we greatly appreciate the efforts that have been made by you, Mr. Chairman, and by our Representative, Congressman Cannon, to keep this issue before the Congress. There is often a tendency by the Federal Government to knowingly or unknowingly place a burden on local governments--and then just forget about it. This monument could easily become a classic example of a unfunded mandate. We greatly appreciate your tenacity.

This time last year we were updating our county's general plan and zoning ordinance. We were planning for the changes we thought were going to follow the influx of new residents. These new residents would come because of the high paying jobs that would follow the development and opening of the Smokey Hollow underground coal mine. The Environmental Impact Statement was well underway--and a positive finding was expected!

Mr. Chairman, we have approximately seven thousand people living in Kane County. Our budget is only two and one quarter million dollars. We just went through the closing of the uranium mine - 150 jobs - and the closing of the Kaibab sawmills - 700 jobs lost.

We were looking forward to being able to mine the large coal deposit. This coal mine would have added 1.3 million dollars to our budget each year, providing good, primary jobs--as well as helping the school children of Utah.

But last September 18th all that changed. The President, with virtually no warning, and no participation on our part, created the largest national monument in the contiguous forty-eight states. An overall area of 2 million acres--over three thousand five hundred square miles!

70% of the monument is in Kane County; two thousand five hundred square miles! Few people, including the President, have an appreciation for just how large and

diverse these monument lands are. This was an enormous decision with enormous consequences. It is a very diverse topography, ranging from the very stark--without vegetation of any kind--to the more familiar red cliffs and canyons highlighted by the media.

What hasn't been calculated is the huge additional burden on local government. And yet, we have virtually no tax base in a county of 4800 square miles. A full 95% of the county's area is public lands.

The budget increase we counted on from coal mining *will* be offset to some degree by an increase in tourism. But a windfall for the county? No! While tourism is already a large part of our income, it has its down-side also. First, it is very seasonal--from May to October. Second, it provides jobs that pay a minimum wage with no benefits. And right now each tourist dollar brought in costs us $1.25, just to provide the needed services: law enforcement, visitor aid, indigent care, fire protection, and water and sewer services.

Our court system case load is already experiencing the second largest growth rate in Utah. The greatest strain on law enforcement personnel, facilities and the court system comes in summer months, during the peak tourist season. It is already close to collapse.

Mr. Chairman, if there is one positive impact of the monument, it has been to make us aware of how fragile and inadequate most of our services may be:

One of the biggest problems we face is how to accommodate tourists who choose to drive their vehicles through the area. There are no paved roads on the Kaiparowits Plateau. The road surfaces are unreliable even in good weather. With rain or snow, the roads can become treacherous almost immediately. It is very easy to become stranded in very isolated areas--even with four wheel drive vehicles and the best of equipment. In Kane County, the monument is an enormous and alluring place -- without gas stations, food, water supplies or sanitation facilities.

People have died out there. And with a great influx of new tourist traffic more people are going to die. This is a very immediate and serious concern. Many national magazines and travel agencies are promoting this beautiful, quiet and photogenic place, with few warnings about the hazards.

This brings up the issue of search and rescue. We are simply not prepared to go out there and rescue people. It is going to take ground-based search and rescue teams with trained people, equipped vehicles and medical supplies. We will also need a helicopter on standby. Helicopters cost $100 per hour. We will need a trained and professional technical rope team and, of course, radio communications. A very modest budget estimate is $570,000 per year.

This, of course, does not include our extra law enforcement requirements: deputies, vehicles and equipment. Nor does it address the added burden on our already

overworked court system. In addition to an increase in domestic problems as unemployment has increased, we are now arresting approximately 50 illegal aliens each night in Kanab. We have impounded 100 vehicles.

On November 1, 1996, not long after the President's proclamation, Kane County entered into a Cooperative Agreement with the Department of Interior. The agreement will provide $200,000 this year to "...facilitate the improvement of the economic, cultural and other resources of the county and to facilitate the BLM's planning process for the Monument."

We entered into the agreement to participate with the Bureau of Land Management in the planning process. We had been left out of the deliberations on the creation of the monument and we did not want to be left out of the planning process. We believed that the Federal Government had an obligation, not only to invite us to participate, but to provide the resources that will enable us to participate fully. Without these funds we simply did not have the budget to be involved in any meaningful way--we are a very poor county.

But our participation is, in fact, a valuable contribution to the process. It is a great bargain for the American people. To make this a positive experience in, and adjacent to the monument, our involvement is essential. No one knows or cares about these lands more than the people who have lived in harmony with the land for generations.

It is extremely important to us that we have a formal and clearly established role in the planning and decision making processes, regardless of who the federal monument manager is. Even if it were to become the State of Utah or some other entity, we would want a clearly defined role.

We have, I believe, established a positive working relationship with the Bureau at the field level and with the Department here in Washington. I have met with Secretary Babbitt and he said that he very much wants the cooperative planning process to work. But secretaries leave, departments change and agency personnel are transferred. We would hope that the Congress will establish a continuing role for Kane County through authorizing legislation, and through the appropriations process. It could be considered a Demonstration Project and extend for a period of five years. It could be an extension of the Cooperative Agreement. We do not, of course, expect to be given a blank check. But we will need a predictable annual appropriation through the planning and implementation phases.

Mr. Chairman, we should not be in the position of having to go hat in hand to the Federal Government every year -- and take a subservient and inferior position.

Eventually, a large part of the expense of providing services could be supported by entry or interpretive fees and the sale of educational materials. It is my understanding that the committee will be considering legislation regarding fees at National Parks and monuments during this congress--and we would hope that the Grand Staircase-Escalante National Monument would be included. We would be

happy to offer recommendations as to what might be implemented.

We are now beginning, with the assistance of the BLM, to implement the public involvement and participation programs. This process will be open and structured to include all points of view within the county: the environmental point of view, tourism industry view, the cattlemen and so on. We are asking the University of Southern Utah to help us create a record of this process through a short video because we believe it can be a valuable model for other Federal/Local government partnerships.

Our involvement in the three-year planning discipline will provide valuable information not only to the county, but to the BLM, and all who are interested. This first phase will end, and most documents prepared and summarized, September 30, of 1997.

Finally, Mr. Chairman, we have come to the conclusion that this new monument is here to stay, regardless of our protests. But these hearings are very valuable because congressional debate provides attention to the impacts of federal actions on local government. Regardless of one's initial attitude regarding the designation of the monument, the Federal Government must collectively, and in consensus, reach out to create a partnership with us in order to create the best monument experience possible. Kane County asks only for the opportunity to participate at a meaningful level.

Thank you again Mr. Chairman and members of the committee for inviting us to participate in these hearings, and I will be happy to answer any questions you have.

U.S. House of Representatives
Committee on Resources
Subcommittee on National Parks and Public Lands
Oversight Hearing on the Grand Staircase - Escalante National Monument
April 29, 1997

Testimony of Ruland J. Gill, Jr.
Chairman, Board of Trustees
Utah School and Institutional Trust Lands Administration

Thank you, Mr. Chairman, for the opportunity to testify before the Committee on this important and controversial issue. I represent the Utah School and Institutional Trust Lands Administration, an independent state agency that manages more than 3.7 million acres of land within Utah that is dedicated to the financial support of public education. I serve as the Chairman of the Board of Trustees that supervises the Trust Lands Administration's activities and provides policy direction to the agency.

My testimony today will address the effect of the designation of the Grand Staircase - Escalante National Monument upon Utah's school trust lands, and ask the Committee for assistance in ensuring that President Clinton's direct promises to Utah's schoolchildren are kept.

Those members of the Committee who represent the western and midwestern states are aware of the crucial role that state school and university trust lands have played in the development of public education in your states. In the western states, these land grants were intended by Congress to provide a steady source of revenue for public schools where the traditional source of school funding -- property taxes -- was limited due to vast and untaxable federal landholdings. The importance that Congress attached to these school grants is revealed by the fact that Congress actually conditioned the admission into the Union of many of the western states -- including Utah -- upon the states' commitment to manage these lands as a trustee for the financial benefit of the public schools.

Utah has tried hard in recent years to fulfil this commitment through the wise and profitable management of its trust lands. Our permanent school fund -- a non-expendable fund that generates interest income for school purposes -- has grown to $120 million, from $46 million only five years ago. The Trust Lands Administration is well on track to doubling the

fund again, to more than $200 million, in the next three years. Yet ironically, even though it is the federal government that has imposed upon us the duty to manage the school trust lands profitably, federal land management policies have become the greatest obstacle to our doing so.

President Clinton's declaration of the Grand Staircase - Escalante National Monument in southern Utah in September, 1996 is the latest and perhaps the largest example of this sad fact. The exterior boundaries of the new monument enclose approximately 1.9 million acres - larger than Delaware and Rhode Island combined. The President's action trapped within the monument over 176,000 acres of school trust lands, together with an additional 24,000 acres of state-owned mineral estate where the surface is owned by others. These school trust lands are scattered throughout the monument, generally in one square mile (640 acre) sections surrounded by federal lands. By unilaterally placing the federal lands off limits to any significant activity, the President isolated the state's lands and effectively destroyed much of their economic potential, since most mineral development requires more than 640 acres to be economic.

The Committee should note that, while the state's lands are physically within the monument, President Clinton's declaration by its terms extends only to federal lands. Although the President's actions have drastically impacted the economic viability of mineral development on trust lands, the Trust Lands Administration remains legally obligated to manage its lands for economic gain, whatever the impact upon monument resources. This direct conflict between state and federal management imperatives will remain unless federal management guidelines are changed or the school trust lands exchanged out of the monument.

What does the state have at stake? The central portion of the monument area is underlain by massive deposits of coal and coalbed methane gas, and potentially contains hundreds of millions of barrels of oil as well. (The Committee should note that the primary area of energy resources -- the Kaiparowits coal basin -- is a high, arid area containing little of the spectacular scenery found in other areas of the monument). The United States Geological Survey has estimated that monument coal reserves exceed 62 billion tons of in-place coal, of which 11.3 billion tons are estimated to be economically recoverable. The Utah Geologic Survey estimates that some 870 million tons of this recoverable coal are located on school trust lands. This coal is low sulfur, high BTU "supercompliance" coal that would have enabled domestic and foreign utilities to easily meet strict new air quality standards. Known reserves of natural gas contained in coal seams -- another clean energy source -- are similarly huge. In addition to natural gas, dozens of large subsurface geologic structures are thought to have the potential to have trapped hundreds of millions of barrels of oil. It is no exaggeration to describe the monument as containing the largest untapped energy reserves in the continental United States.

The long-term financial impacts of the monument upon Utah's public schools will be substantial and negative. At the time of the President's proclamation, Andalex Resources, Inc. was in the final stages of obtaining permits for its proposed Smoky Hollow coal mine, which was predicted to have produced state royalty revenue averaging over $600,000 per year for thirty years or more. In addition, Andalex and the Trust Lands Administration had reached conceptual

agreement on adding five additional school sections to Andalex's existing coal leases; the estimated bonus bid for these tracts alone was in excess of $7 million, based upon the known recoverable tonnage of coal on those lands. Royalty and bonus revenues from the Smoky Hollow mine -- now lost -- would have been deposited in the Permanent School Fund, where they would have cumulated and produced income for Utah's schools in perpetuity.

Other energy development activities were also ongoing within the monument area at the time of the proclamation. An energy consortium including the Williams Companies and Security Energy Corporation had obtained oil and gas leases for coalbed methane on some thirty thousand acres of school trust lands within the monument, and was in the final stages of obtaining leases on the intervening federal lands. The coal beds from which this gas was to be produced are well-defined and extensive; a similar development on less school trust acreage in Carbon County, Utah, has produced monthly royalty income in excess of $200,000 to the Permanent School Fund. Yet with the President's withdrawal of intervening federal lands, the coalbed gas project within the monument died.

These projects represent the tip of the iceberg; the Smoky Hollow mine represented production of less than one percent of the Kaiparowits coal located within the monument's external boundaries. Given the remote nature of the monument, many valuable resources remain to be discovered.

Those who have wished for political reasons to minimize the effect of the President's actions upon Utah's schools have argued that the schools get little current income from the monument, mostly from the $1/acre annual rental for the 100,000 acres of school trust lands within the monument that are leased for minerals. This argument ignores the exponential increase in revenues to the state once production begins and royalties are paid. The 25,000 acre coalbed methane development in Carbon County, Utah that I have described above returned only $1/acre annually during its pre-production phase; the most recent monthly royalty payment to the Permanent School Fund was $222,000. Had promising mineral development within the monument been allowed to proceed to fruition, similar exponential increases in school trust revenue would have occurred.

It is appropriate to note here that my testimony has focused only upon the school trust lands, which make up approximately one ninth of the monument. The President's unilateral decision to kill mineral development in the monument area has cost the federal treasury far more than the state in lost bonus and royalty income. This loss is in addition to any effect upon tax revenues, national energy security, the trade balance, and the employment of American workers that the loss of Kaiparowits energy resources may entail.

The Trust Lands Administration recognizes that, in proclaiming the monument, the President promised to honor valid existing rights within the monument. Were this promise to be honored in a common sense way, Utah's schools might be able to see at least some of the revenues expected from mineral development in the monument. Yet in the months since

monument designation, the Department of Interior has interpreted the concept of valid existing rights for mineral development so restrictively that many state and federal mineral lessees, notwithstanding their prior investment of millions of dollars in the monument, have given up upon any possibility of exercising the valid existing rights that the President ostensibly protected. As an example, Andalex Resources -- the state's largest coal lessee in the monument -- was told that while it might have valid existing rights to mine coal, it had no right to move that coal out of the monument by road. Not surprisingly, it is giving up on its plans for the Smoky Hollow mine, with the resultant loss of bonus bid and royalty revenue to Utah's schools.

In his speech proclaiming the new monument at the Grand Canyon on September 17 of last year, President Clinton did not ignore the issue of school trust lands. In fact, the President stated: "I know that the children of Utah have a big stake in school lands located within the boundaries of the monument that I am designating today." The President went on to encourage exchanges of the school trust lands out of the monument, saying:

> I will now use my office to accelerate the exchange process. I have directed Secretary Babbitt to consult with Governor Leavitt, Congressman Orton, Senators Bennett and Hatch, to form an exchange working group to respond promptly to all exchange requests and other issues submitted by the state, and to resolve reasonable differences in valuation in favor of the school trust. By taking these steps, we can both protect the natural heritage of Utah's children and ensure them a quality educational heritage.

The President's promise is a reasonable one, and one that Utah hopes will be kept. Yet events since the monument designation do not encourage us. Despite the passage of seven months, the exchange working group directed by the President has to our knowledge yet to be formed. As for promptness, the Department of Interior has informed the state that it will not even consider working on exchanges of school lands out of the monument until the pending exchange of school lands out of National Park Service lands is completed, a process that could take years.

The history of past and currently pending exchanges is no more encouraging. Federal reservations and management actions have trapped over a million acres of Utah's school lands as inholdings within federal lands. In addition to the 200,000 acres of school lands within the monument, these lands include an additional 200,000 acres within national parks, forests, and Native American reservations; some 600,000 acres within BLM wilderness study areas or areas proposed by environmental groups for wilderness designation and managed by Department policy as de facto wilderness; and 10,000 acres of highly valuable development lands contained within the federally-established Habitat Conservation Plan area for the endangered desert tortoise near St. George, Utah.

The Trust Lands Administration recognizes that these federal management classifications

in most cases have a legitimate national purpose. We believe that it is often more appropriate to trade school lands within these areas for usable federal lands elsewhere, rather than create conflict between federal management goals and our legally-required focus upon financial returns. Yet our attempts to exchange these lands have been fraught with disputes and bureaucratic delays.

As an example, our agency has had a memorandum of agreement with the BLM for the exchange of school lands within Desert Tortoise habitat since 1995. This exchange has supposedly been a priority of Secretary Babbitt since he took office. In the intervening time, BLM employees have intimidated private appraisers through spurious complaints to licensing agencies, and proposed absurdly low acquisition prices for valuable commercial land in one of the hottest real estate markets in the United States. Until Congress intervened in the last sesssion by setting reasonable valuation parameters, this exchange process was effectively dead. Even now, years after exchange discussions began, not one acre of state tortoise habitat has actually been exchanged.

In 1993, Congress passed and President Clinton signed Public Law 103-93, which created a process for the valuation and exchange of school trust inholdings out of national parks, forests and Native American reservations within Utah. Although we were hopeful at the time that this legislation would provide a mechanism for resolving disputes over inheld school trust lands, the enormous transactional costs associated with tract by tract appraisals of hundreds of tracts, when coupled with continued Interior Department instransigence over valuations, makes a successful and amicable completion of this exchange more difficult.

The lesson that we have drawn from these problem exchanges is that the Department of Interior has not had the resources, the legal flexibility, or perhaps the desire to complete large scale exchanges in a timely and mutually acceptable manner. The President has expressly requested that Utah trade its school lands out of the monument. If this is to occur, the state, Congress, and the administration must work together to learn from past mistakes and find a better means of avoiding delays and valuation disputes.

In conclusion, the Trust Lands Administration seeks something simple -- the fulfillment of the President's promises that Utah's schools would not bear the costs of the monument designation, and that all reasonable differences in value be resolved in favor of the schools. We ask the Committee to encourage the President and his administration to keep these promises, and to support a reasonable, flexible legislative solution to any exchange of school lands out of the new monument.

Thank you again for the opportunity to testify in this matter.

Statement of

Mark Austin

before the

Subcommittee on National Parks, Forests and Lands
House Resources Committee
United House of Representatives

April 29, 1997

Dear Committee members, Chairman James V. Hansen;

I respectfully thank you for the opportunity to submit to you my concerns and ideas about the management of the Grand Staircase-Escalante National Monument.

I am the principal owner of Boulder Mountain Lodge, a new prospering destination tourism development in the town of Boulder, Utah, population approximately 175, which is adjacent to the new monument. We opened for business in the fall of 1994. We have 20 deluxe guest rooms and a restaurant. I also have chosen to continue my career as a building designer and contractor which has been my primary occupation since 1974 while living in southern Utah. I am also the primary founder of the Southern Utah Independent Forest Products Association. We have been developing ideas and methods to add higher value to wood products in rural Utah. I am associated with Confluence Associates in SLC, Utah which is a private organization for the promotion and emphasis of environmentally sound economic development in rural Utah.

It has always been my policy not to criticize or denounce an idea unless I or someone has an alternative proposal which I can stand behind and promote as a better solution. I believe strongly as well as most rural Utahn's that economic development needs to occur and emerge from within rural Utah, perhaps with some outside assistance if needed. This desire for primarily locally and regionally owned business is also a desire to help maintain a better sense of community.

I was recently invited to speak at both the Boulder Business Alliance and the Escalante Chamber of Commerce. I was asked why Boulder Mountain Lodge is enjoying a very strong visibility in most of the recent media attention given to the monument. And why we are having a higher room occupancy than anyone else in our region. Well, I spoke to them in simple terms.

I respect and share the same values which our visitors come to experience. I do not bash the federal government for our new monument. I do not blame everything wrong in my life on environmentalists or the federal government. I support the monument. I am grateful for the monument. Journalist who interview our area residents would much rather focus on positive pro-active participants in this generally popular monument. No one wants to listen to whining.

The business community in these rural areas will well out-live the current political climate, governing commissions, boards, and councils. Business is usually ahead when it has a vision for long term profit and community well-being, a very positive co-dependency, like a good marriage. Business development should be compatible to co-exist with the healthy dominant economic fuel, tourism. Ranching and grazing within the monument may be compatible if properly managed. In the adjacent communities high value-added wood products, speciality beef, ostrich fariming, fish farming are examples of additional first generation businesses which can complement and even nourish the goose that lays the golden eggs, tourism. Of course, there are second and third generation business opportunitites such as construction, rentals and so on. Business which will have a negative impact on tourism should be discouraged and prevented. At the

end of both meetings with the chambers of commerce from Escalante and Boulder, I left with a distinct understanding that these two business communities understood my message and that in fact over 3/4 of the representatives from the businesses in attendance shared my feelings. I asked, then why is this not being heard by our commissioners and state representatives?

Going back to the positive comments at both meetings. Much was said by most, about the need to minimize if not restrict development in the monument which if accomplished is expected to induce and stimulate economic prosperity in the adjacent communities. Much was said about the need to coordinate planning between the monument planning team and the surrounding communities. Most agreed that paving of roads and promoting development within the monument boundaries were a poor idea. Most were angry and disappointed that Garfield County had turned down a $100,00 grant offered by the Department of Interior. In fact three adjacent communities to the monument wrote letters to the Department of Interior requesting the monies their own county had refused. All agreed that money is needed within the communities before if ever needed to pave roads in the monument. Nothing contributes to the communities by paving roads, this is not the solution. Diversity within our Park and Monument system is what works best, diversity within the framework of experience that the people come here to see and ponder. They are seeking the vastness and wild places that have become a non-renewable resource. Some people call it wilderness. All in all the same value of great open spaces. Impacts to these spaces need to be considered with empathy, sensitivity, and appreciation. To desecrate or impair these lands by creating non-compatible development adjacent to or within these remarkable landscapes is a violation of the sanctity of the nation's values.

I have asked myself the question, do we need to compromise these landscapes for a higher value, for the need of man, a mandate from God or the security of our nation. The simple clear undeniable answer is a big NO. These lands hold no resources which may be needed inside or outside of Utah that are not available elsewhere and more economically. There are no comparable lands elsewhere on this planet, the best use of these lands is to preserve them for the worlds enjoyment and posterity. And we make a very good living doing so. This will not eliminate compatible developments within the region. Why are we so selfish as to not want to share our national treasures. Is this an accurate reflection of Utah's values. I believe not. What is going on here? How can our Utah delegates to congress not see this? This respect for the land and the desire to preserve it is reflected in the State of Utah's Governors report on wilderness which indicates that nearly 73% of Utahn's support 5.7 million acres of wilderness in Utah. 1.3 million of this is within the boundaries of the 1.7 million acre monument. This same percentage is reflected in the Salt Lake Tribune and the Deseret News. Can anyone really imagine these same people support oil and coal mining in a national monument?

What occurs to me when asked questions about what we need in Utah evokes a very basic response. Keep and improve what is compatible for the quality of the people and the land considering the current dependencies and conditions. In southern Utah adjacent to the new monument extractive industries such as coal mining and uranium have little to do with the

economy, not because of political objection to these activities but, because there has been no demand for these resources nor realistic opportunity to develop any economic reality for their extraction. In addition, there has never been a coal mining culture or economy in southern Utah, central Utah yes, specifically, the Price, Utah area which is nearly 200 miles away from the new monument. What is currently, and has been growing steadily over the last 70 years is the economic driver of tourism. Tourism is the dominate and largest contributor to the southern Utah economy. Coal and oil development have no place sharing the nest with our Goose. What we are looking for is a mate to this goose, not a predator.

I ask you to consider these thoughts and representations relative to all issues on federal lands in Utah. Thank You.

Mark M. Austin
Boulder Mountain Lodge
PO Box 1397
Boulder, Utah 84716