

Hearing on the Grand Staircase-Escalante National Monument - Before the Subcommittee on National Parks, Forests and Lands, United States House of Representatives, April 29, 1997

Governor Michael O. Leavitt

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, Marsha Hales. She had seen the story and told me that they weren't certain where 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 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 were being organized to take Utah's to Arizona for the announcement, the Governor's 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, Marsha Hale, Director of Intergovernmental Affairs and another member of the white house staff were also in attendance.

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 AM 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 2 + 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 multimillion 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. 10393). 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. 10393, 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.