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deseretnews.com

Deseret News, Saturday, April 12, 2003

Potential wilds no longer get protection

By Jerry Spangler
Deseret News staff writer

In a pivotal decision that will dramatically alter the 25-year wilderness debate, the federal government on Friday agreed with Utah's legal argument that current federal policies toward potential wilderness are illegal.
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April 11, 2003: Environmentalists scrambling to counter Utah wilds lawsuit

April 10, 2003: Utah poised to take control of numerous rural roads

April 10, 2003: Green light on rural roads

March 4, 1998: Inventory of Utah wilds is back on track

Nov. 20, 1996: Babbitt going for end run on wilds?

Aug. 1, 1996: Babbitt orders new study on potential wilderness

Southern Utah Wilderness Alliance Web site

Utah Bureau of Land Management Web site

The Department of Interior, in settling the case, has agreed to remove legal protections now afforded to those potential wilderness areas identified after 1991, and to discard its current wilderness policies, articulated in the "Wilderness Handbook."

"Only Congress can create wilderness, only Congress can create wilderness study areas and only Congress can terminate access to the resources (on public lands)," said Utah Gov. Mike Leavitt, who noted the Department of Interior and the Department of Justice approached the state wanting to settle the 1996 lawsuit.

"They concluded it was in their interest to resolve this matter," he added.

Conservationists were devastated, but not particularly surprised by the news. "Given this administration, it is no surprise at all it adopted the most radical anti-environmental position it could," said Jim Angell, an attorney for Earth Justice in Denver who is representing six regional conservation groups trying to intervene in the lawsuit.

But that motion on Thursday might have come too late as the state and federal government filed their own notice Friday that they had settled the suit.

The case has languished in U.S. District Court since 1998 when the 10th Circuit Court of Appeals rejected seven of eight state claims. The state and federal government have been negotiating over the one remaining issue.

On May 28, the state, along the Utah Association of Counties and the School and Institutional Trust Lands Administration, amended their lawsuit, in effect filing a whole new series of claims that federal land managers did not have authority to identify or manage wilderness not specifically authorized by

Utah Wilderness Coalition Web site

Congress. And there has been no congressional approval for any wilderness studies since 1991.

U.S. Department of the Interior Web site

In a letter sent late Friday to members of Congress, Interior Secretary Gale Norton said, "The Department of Interior stands firmly committed to the idea that we can and should manage our public lands to provide for multiple use, including protection of those areas that have wilderness characteristics."

Norton also said she was setting aside the 2001 Wilderness Handbook — a land management policy implemented in the waning days of the Clinton administration — which required the BLM to protect the wilderness qualities of lands that could qualify as wilderness areas. That requirement created millions of acres of de facto wilderness.

The settlement affects not only Utah, but all Western states. And it will have far-reaching impacts on conservation groups throughout the region, which have used small armies of volunteers to document lands they believe are worthy of wilderness designation. Federal land managers have then incorporated those findings into land management decisions.

In Utah, conservationists identified 9 million acres of potential wilderness.

But the Utah settlement throws all that out. It also discards a 1999 inventory of Utah lands, ordered by then-Secretary of Interior Bruce Babbitt, that identified 5.9 million acres.

Friday's settlement takes the numbers game back to 1991. In 1976, Congress allowed for a 15-year inventory of Western lands for wilderness consideration. And at the end of that period, the Bureau of Land Management had identified 3.2 million acres in Utah.

Advocates on both sides of the debate agreed that inventory was flawed, with county commissioners arguing it was too much and conservationists saying it was too little and blaming the Reagan Administration with politicizing the process.

But Leavitt says 1991 is a good starting point.

"We have 3.2 million acres to choose from and we ought to get started," he told the Deseret News. "I am prepared to begin advancing wilderness proposals to Congress. The only issue is not if, but where and how much."

Conservationists do not know what their next move will be. But they vehemently disagree with attorneys for the state and federal government who agree the federal government has no legal standing.

"The courts have all rejected Utah's argument, and it is appalling the administration is adopting it," Angell said.

But Utah officials and their attorneys say their argument is rooted in Article 4 of the U.S. Constitution, which gives only Congress the right to manage public lands.

How did it happen? "It was little by little, accretion with acreage here and there, until the

number in Utah is 9 million acres," Leavitt said.

And it happened during the Clinton Administration when the BLM expanded its wilderness mission to include wilderness values in its decisions on whether or not to allow mining, roads, oil and gas exploration and recreation. Millions of acres across the West were consequently managed as wilderness, even though they were never part of any inventory sanctioned by Congress.

"Secretary Norton's actions will bring resolution to the illegal activities of the past administration," said Sen. Orrin Hatch, R-Utah.

Contributing: Associated Press

E-MAIL: spang@desnews.com
