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# THE DOCENT NEWS



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*Gateway to the Tallgrass Prairie Preserve*

## DOCENT AWARD BANQUET

—Dee Brewster

Our 2005 Docent Award Banquet will be held

on December 2<sup>nd</sup> at the Research Station of the Tallgrass Prairie Preserve. Make plans and be prepared to receive a formal invitation in November.

## RED CEDAR FOLLOW-UP

—Van Vives

The National Resources Conservation Service (NRCS) and the state Commerce and Agricultural departments are planning to map the Red Cedar concentrations in several counties in central and north central Oklahoma. The purpose is to inventory areas where Red Cedar are most abundant so logging operations can proceed. The NRCS will use satellite imaging technology to pinpoint the areas of highest concentration.

There are several companies that are already harvesting the trees. The multi-purpose project is to create jobs and to regenerate prairie grasslands. Counties where harvesting has begun include Payne, Pawnee, and Lincoln. The NRCS is encouraging suggestions for end uses for the Red Cedar wood.

## INTERESTING VISITORS

—Van Vives

(1) On September 24 we were honored to have a group of International visitors escorted by a

member of the State Department. Their program is the U. S. Department of State International Visitor Leadership Program and the visitors this time are all connected with Museums and Cultural Heritage programs in their respective countries. This was a scheduled tour.

Our foreign guests were:

- Mr. Georgi Asenov Maystorski of Bulgaria. He is the Director of the National Historical-Archaeological Reserve and Museum, Veliki Preslav.
- Mr. Fasil Giorghis Melessa of Ethiopia. He is a lecturer and member of the Faculty of the Technology Department of Architecture and Urban Planning.
- Mr. Kakha Trapaidze of the Republic of Georgia. He is the Executive Director of the Georgian National Museum.
- Mr. Peter Taborsky of the Slovak Republic. He is the Director of the National Trust of Slovakia and is a civil engineer specializing in low energy architecture. Though only thirty-one years old, he is also the founder of the National Trust of Slovakia.
- Ms. Maryam Said Al Noamani of Oman. She is the Visitor Relations Coordinator of the Bait Al Zubair Museum.
- Mr. Hamad Hassan Omar of Tanzania. He is the Director of Archives of Museums and Antiquities, and Minister of Education, Culture,

and Sports for the Revolutionary Government of Zanzibar.

- Ms. Viviane Silverman of the U. S. Department of State. She is an English-Language Officer.

The State Department asked me to show them the bunkhouse and to give the group a talk concentrating on the history and cultural influence of the Osage Tribe, Oil Industry, and Cattle Industry. I'm glad I received advance notice so I could brush up on all of that information.

The group was most gracious and showed intense interest in the ranch and Osage history. The bison were particularly cooperative, with most of the 2,400 in one group near and on the road. I knew they would be late in arriving at the gift shop when I saw the bison being so available for picture taking.

Our visitor from Slovakia was very interested with the bunkhouse. Having a background in architecture prompted many questions. He kept commenting about it having so much brick work and so little wood. He asked if I could please give him some written information about the bunkhouse. I copied the floor plan and description that we had in our manual. He was most appreciative.

There were questions about the existence of artifacts of the Osage Tribe in the vicinity. It was too bad they didn't have time to visit the museum in Pawhuska. They wanted to visit the "cowboys horses," but there was no time. They left the

Tallgrass Prairie Preserve for Ponca City, where they were going to attend the Pow-Wow.

I must say that this was one of my most interesting days at the Tallgrass Prairie Preserve.

(2) We received two cars of French-speaking families, who had evacuated Houston because of Rita. They were there at the same time as the International group and found people to converse with in French, including the member of the State Department.

(3) Another visitor was in Pawhuska for a school reunion. He asked permission to take his wife to see the stucco house. He was a young paramedic who came to the ranch when Mr. Barnard's son committed suicide. He said he will never forget that day.

### TALLGRASS NATIONAL PRESERVE

—Brian Obermeyer

For over fifty years, Kansans and other concerned citizens have tried to create a national park to interpret the tallgrass prairie. In 1991, through the efforts of the Kansas Congressional delegation led by Senator Nancy Kassebaum Baker, the *National Park Service*, the *National Park Trust* and citizen leaders of the *National Park Service* formally identified the nearly 11,000-acre Spring Hill—Z Bar Ranch, located in Chase County, Kansas, as the best candidate for a “Tallgrass” National Park.

In 1994, the *National Park Trust* began the

process of purchasing the land, but soon cheers turned to worries as the organization encountered financial challenges. It appeared that portions of the land might be sold to satisfy land debt and other liabilities. Late last summer, Kansas Governor Kathleen Sebelius turned to *The Nature Conservancy* for assistance, asking the Conservancy to purchase the property, buy out a long-term grazing lease, and re-acquire the mineral rights. In March of 2005, the Kansas Chapter of *The Nature Conservancy* became the new owner of the nearly 11,000-acre *Tallgrass Prairie National Preserve*.

While the *Tallgrass Prairie National Preserve* is under ownership of *The Nature Conservancy*, a unique partnership has been put into place between *The Nature Conservancy*, the *National Park Service*, and the *Kansas Park Trust*. In fact, this public-private partnership is the only one of its kind in the United States. *The Nature Conservancy* will own the land, pay the taxes, manage the grazing leases, and collaborate with the *National Park Service* on overall natural resource planning. The *Kansas Park Trust* will promote and develop tourism opportunities. The *National Park Service* will operate the preserve for visitors, offering tours, hiking, and a variety of other opportunities for public access to the land.

By taking successful conservation action, *The Nature Conservancy* has created a legacy that allows the *Tallgrass Prairie National Preserve* to continue its mission of preserving and enhancing a

significantly large remnant of the tallgrass prairie ecosystem; preserving and interpreting the cultural resources of the property; and offering opportunities for education, inspiration, and enjoyment.

Future plans at the *Tallgrass Prairie National Preserve* call for new hiking trails, fishing access, the possible reintroduction of bison, construction of a state-of-the-art visitor's center to interpret the natural and human history of the tallgrass prairie, and the active management of the land through a combination of ranching and preserving a pre-settlement landscape.

The Preserve will function as an important conservation anchor site in the Flint Hills, and serve as a demonstration site for ecologically sustainable land stewardship practices. It will offer programmatic benefits to the *Conservancy* by providing better visibility at the state and national level; an opportunity to partner with the *National Park Service*; better ties to the cattle industry; and a focal point for a conservation easement initiative in cooperation with the region's private landowners.

*Brian Obermeyer is a Project Director for The Nature Conservancy Flint Hills Initiative.*

#### **ENDANGERED SPECIES AND GOVERNMENT**

—Bart Mongoven for Strategic Forecasting, Inc.

*Endangered Species and the "Small Government" Argument is reprinted with permission from the "Stratfor: Public Policy*

*Intelligence Report — September 22, 2005". See Strategic Forecasting, Inc. at [www.stratfor.com](http://www.stratfor.com).*

Rep. Richard Pombo (R-Calif.) has initiated debate in the House of Representatives on a bill that would dramatically alter the laws governing the protection of endangered species in the United States. Pombo has been an outspoken critic of the Endangered Species Act (ESA) for more than a decade, and his arguments are supported by property-rights groups and some in industry who see a host of flaws with the application — if not the intent — of the environmental law.

The debate over ESA will touch only tangentially on the actual protection of endangered species — very few of the law's critics deny that governments have a stake in preserving endangered species. Instead, the arguments will tend to focus on constitutional matters, particularly the power the law gives to the federal government generally and to the Department of the Interior particularly. In the political aftermath of Hurricane Katrina, Pombo's bill might provide a useful glimpse into the changing political climate and, especially, shed light on the remaining strength of conservatives who are dedicated to curbing the power and influence of federal regulatory authorities.

The ESA debate came partly into view during Judge John Roberts' Supreme Court confirmation hearings. Senators questioned Roberts about a decision he wrote in a 1998 case, considering whether federal protection of an endangered frog

species — or, as Roberts called it, “a hapless toad that, for reasons of its own, lives its entire life in California” — constitutes regulation of “interstate commerce” as conceived in the Constitution’s commerce clause. Roberts’ critics said that, at minimum, his stance in the case indicated a general insensitivity toward endangered species. More broadly, they argued that it showed antipathy toward an expansive view of the commerce clause and the authority it bestows on the federal government.

The most famous case involving the ESA is still TVA<sup>1</sup> v. Hill, in which the rare and endangered snail darter was found in close proximity to a multimillion-dollar dam being built on the Tennessee River. The Department of the Interior ordered construction halted — even though the dam was near completion — when the species was discovered to be in the area. In the court cases that followed, culminating in TVA v. Hill, the courts established that ESA was written in such a way that it held almost no expense was too great to preserve an endangered species. The dam remains unfinished.

Congress responded to the TVA decision by adding a section to the law, establishing a committee to hear special cases in which saving an endangered species would carry tremendous expense. Such a committee, commonly referred to as the “God Squad” (to evoke the notion of playing God), has been used five times — ruling

<sup>1</sup> TVA = Tennessee Valley Authority — Editor.

against species protection only once.

The ESA also comes under great scrutiny when questions of “regulatory takings” are concerned. Often, when an endangered species is found on private property, the federal government establishes a protection regime that usually (but not always) reduces or destroys the value of the property. In these instances, the landowner is not entitled to reimbursement, because courts have ruled in many cases that “regulatory takings” simply do not exist and, therefore, that the Fifth Amendment protections against government seizure of land without compensation do not apply. With this in mind, some landowners — particularly those with timber or agricultural interests — have a financial incentive to destroy any habitat (for example, old-growth forests) that conceivably might harbor an endangered species. In most known cases, the examples involve preemptive strikes: landowners destroyed potential habitats so that no endangered species would make their land home. In some cases, however, landowners reportedly killed species deliberately in order to maintain control over their land.

In response to stories of such habitat destruction, both the Reagan and Clinton administrations introduced programs to compensate landowners for habitat protection, and otherwise encouraged private citizens to locate endangered species on their property. These programs have been criticized by some environmentalists, who question whether the

government should be in a position of paying people not to harm the environment, and many elements of these programs have been struck down by the courts.

In addition to these constitutional questions, there are a series of controversies surrounding the federal government's implementation and application of the ESA.

For example, until a recent revision requiring more inter-agency cooperation took effect, the Department of the Interior often halted the use of certain pesticides over large areas — even though those pesticides were approved for use by the Environmental Protection Agency, which has statutory authority on such issues.

Similarly, a long-running dispute over the Army Corps of Engineers' regulation of the level of the Missouri River has pitted two parties against each other — both of which are using the ESA to support their positions. One side claims that protecting the habitat of the native pallid sturgeon requires that the river be managed in a way that, coincidentally, benefits the upriver recreational industry. Equally coincidentally, downriver interests have argued that more research on the pallid sturgeon is needed before a river-management policy is implemented that would hurt downriver agricultural and shipping interests. In other words, and putting sarcasm aside, both sides in the debate, regardless of what their true feeling on the pallid sturgeon might have been, sought to use ESA to their advantage on a policy

question — upon which they would have been focused whether endangered species were involved or not.

As these examples show, the ESA is controversial primarily because it is so powerful. It gives the federal government tremendous latitude on a variety of issues, which raises the ire of conservative and libertarian groups. Meanwhile, despite all of its power, it has not been particularly effective at bringing individual species out of “endangered” status — something that conservationists acknowledge.

Pombo's revisions to ESA would address most of these controversial provisions. His proposal calls for the federal government to compensate landowners for property values diminished by endangered species-related habitat conservation plans. It seeks to clarify the scientific responsibility for determining what constitutes “endangered” and “threatened” species. It would place far greater responsibility for habitat preservation and management in the hands of state regulators than private citizens. Conservationists agree that many of these issues need to be resolved, but they also contend that these changes add up to a “gutting” of the ESA.

Though Pombo's revisions are likely to pass the House and face a challenged (but not impossible) path through the Senate, what lies ahead mainly will be difficult public debates over the impermanence of species, the role of the federal government and the lengths to which the

American public is willing to go to protect species.

The debates to watch will be those touching on the role of the federal government. In the wake of Hurricane Katrina, a general reevaluation of government's role and its strengths and weaknesses is beginning. Pombo's revisions to the ESA are predicated on the public's disgruntlement with how powerful ESA is. The ESA certainly drives to the far end of the commerce clause of the Constitution, and it does not demand compensation for takings. In that sense, ESA is an affront to many conservatives, particularly those concerned about the size and power of the federal government.

If the conservative argument that the federal government is an authority of last resort is still operational, Pombo's revision will pass through. On the other hand, if the bill does not gain support among the Senate's moderate Republicans, it would be a signal that the "small government" argument espoused by the Republican Party and

the Bush administration is dead.

Send questions or comments on this article to [analysis@stratfor.com](mailto:analysis@stratfor.com).

#### **NEWSLETTER PUBLICATION**

—Andrew Donovan-Shead

Deadline for submission of articles for inclusion in the newsletter is the 10<sup>th</sup> of each month. Publication date is on the 15<sup>th</sup>. All docents, Nature Conservancy staff, and university scientists are welcome submit articles and pictures about the various preserves in Oklahoma, but of course the Tallgrass Prairie Preserve in particular.

#### **BACK ISSUES**

—Andrew Donovan-Shead

You can find back issues of the Docent Newsletter in the green zip-binders in the Visitors' Center; they are stored in the Perspex rack next to the filing cabinet under the name-tag board. All issues that were published in color are printed in color. The pictures look good.



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