

# Supreme Court Begins Debating Merits of Endangered Species Act

WASHINGTON, D.C. — The Supreme Court, in a spirited argument over the Endangered Species Act, debated Monday whether the government for 20 years has wrongly interpreted the law to ban destruction of wildlife habitat on private property.

Eight of the nine justices fired questions at lawyers for the timber industry and the Clinton administration. The case could lead to one of the court's most important environmental rulings since Congress passed the law in 1973.

If the government loses the case, "it is going to make it very difficult to enforce the Endangered Species Act at all on private lands," Assistant Interior Secretary George Frampton Jr. said after the arguments.

The case centers on loggers in Oregon

who want to cut trees in areas with the threatened northern spotted owl. But the discussion before the high court Monday ranged from goats and butterflies to koalas and even rare bugs splattered on car windshields.

"Couldn't we pick an uglier example ... than a koala bear?" Justice Antonin Scalia asked during a light moment.

"You pick the cutest, handsomest little critter," Scalia told Justice Stephen G. Breyer, a Clinton appointee who asked the most aggressive questions of the timber industry lawyer, John Macleod.

Scalia argued for a narrow interpretation of the prohibited "taking" of threatened or endangered species.

"To take' an animal refers to hunters. Historically, I've never heard it used in any other way," Scalia said. "The whole spotted owl thing is based on that notion that

people who harvest trees are taking owls ... To say this is taking an animal seems to me just weird."

Breyer said he didn't read the law to apply only when an animal is harmed intentionally, as the industry argued. He suggested it might apply as well when "the person knows it is going, as a consequence, to kill a few rare birds."

Breyer said a farmer who set up a battery of guns to kill crows eating his corn and knew the guns also could kill rare birds



Supreme Court Justice ANTONIN SCALIA is pushing for a narrower interpretation of the environmental protection law.

should be held responsible for the deaths of the rare birds.

"I don't see how Congress could pass the act and not prohibit the person who, for other reasons, is shooting guns off and happens to wipe out the species," Breyer said.

Justice David Souter agreed.

"It seems to me you're wrong when you say it's got to be purposeful," he said to industry lawyers.

Justice Anthony Kennedy also suggested it was appropriate to consider "what are the logical, likely ... consequences" of the habitat destruction.

Justice Clarence Thomas was the only court member who refrained from questioning the lawyers. A ruling is expected as soon as June.

Both sides agree the law outlaws the direct hunting, trapping or killing of threat-

ened or endangered species. They also agree the law outlaws destruction of a protected species' habitat on federal land, but they disagree about the application of that protection on private land.

The timber industry, including logging interests in the Southeast, argue the act calls for the federal government to purchase land from private landowners when the land is critical to survival of troubled fish or wildlife.

The government, backed by environmental groups, argue some species will become extinct without federal restrictions on commercial activities on private lands.

The Fish and Wildlife Service defines "harm" to include "significant habitat modification" leading to an injury of a protected species.

"It has been in effect since 1975. This is not a new definition," Deputy Solicitor

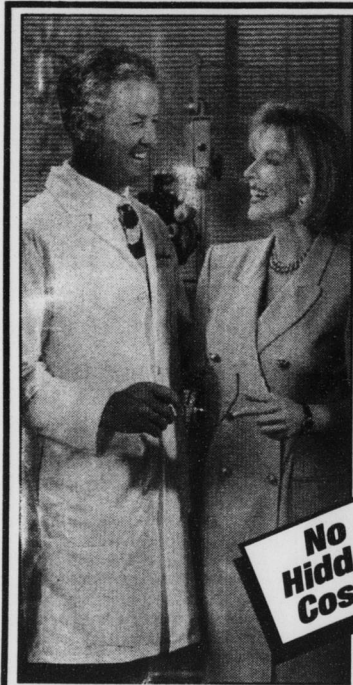
General Edwin Kneeder told the justices.

He said Congress intended to outlaw "action which has the consequences" of killing a protected species, including destruction of habitat, such as the old-growth forests where spotted owls live.

Justice John Paul Stevens suggested the industry's interpretation of the law would leave the federal government powerless to protect troubled species in any way on private lands.

Stevens asked, "Is there any way to stop it (from going extinct) other than for the federal government to acquire the land?"

Macleod said, "When dealing with purely private land, the answer is land acquisition." Under the government's current interpretation, Macleod said, "if you are driving down a road and hit a listed insect with your windshield, you committed a taking."



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## LABS

FROM PAGE 3

always make them leave," she said. "Academic work has priority."

However, students sometimes use e-mail for recreational purposes but say they are doing academic work, Grady said.

"It is almost like an Honor Code violation if they lie, but you cannot do anything if they say it is for a class," she said.

Maggie Ashburn, a freshman from Asheville, said the lab managers kicked students off the computer if they were doing e-mail, but she also said she thought it was fair because academics should take priority.

Chris Baysden, a lab technician at the Office of Information Technology, said that besides enforcing the two-hour time limit on computers, there was not too much they could do to shorten the wait.

Some students think UNC should have more computer facilities. Mary Scott Perry, a freshman from Edenton, said, "A univer-

sity this big should have enough computer equipment to accommodate the students, especially considering the importance of computers to classes here."

Baysden suggested that students try Venable to avoid long lines because it was the biggest lab, but he also said it filled just as fast as the lab in the Undergrad.

"In crunch time, it has the highest turnover rate (because there are more computers), so you may have a better chance there," he said.

Jones said the rush gave computer lab managers a few added responsibilities, including enforcing the two-hour time limit and restocking the paper supply.

Computer labs are located in the Undergraduate, Davis and Health Sciences libraries, Venable Hall, the School of Public Health, Greenlaw Hall, the School of Law, and in Spencer, Teague and Craigie residence halls. There are three additional labs in Morrison, Hinton James and Ehringhaus residence halls that do not have computer lab managers.

## VISIT

FROM PAGE 3

war, so unless we find qualified individuals, transition will be difficult," he said.

While in the United States, Negash and Habte-Michael will observe the law schools' admissions processes and curriculum development, as well as problems with the U.S. legal system.

Habte-Michael knows firsthand the importance of establishing a law program in his country. "Currently, our law school

has four teachers because many had died in the war," he said.

Habte-Michael also understands the concept of building a democracy. "In trying to build a democracy, you have to build a culture of people who understand each other," he said.

After their meeting, the professors will head to Washington, D.C., for a follow-up meeting dealing with law.

Later this year, the faculty of several U.S. law schools will attend law programs in Africa, including Asmara.

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