Denver Law Review

Volume 45 | Issue 2 Article 2

January 1968

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By Michael McCloskey*

The plight of conservation of natural beauty in the rural landscape has been much discussed in recent years. Mr. McCloskey suggests that the proper place to start any preservation program is on federally owned lands. He points out the difficulties involved in developing criteria for determining what scenic features should be protected and discusses methods currently in use for establishing such criteria. Mr. McCloskey charges the federal agencies who administer federal lands with the failure to develop coordinated policies for classification and protection of scenic resources despite existing statutory authority. He concludes that while a broadly conceived national landscape policy would not be a panacea, it could serve as a framework to protect the beauty of public lands.

MOST people now accept the premise that natural beauty is an important component of a livable environment, a goal being sought with growing urgency by a collaborative effort among the design professions, natural scientists, conservationists, and others. By its character, however, natural beauty is a concept which eludes clear understanding. As a result, no basic statement of national policy respecting the treatment of the American landscape has emerged from the President's program on natural beauty. Instead various federal agencies have contented themselves with gestures toward the concept. They identify contributions being made by established recreation programs, and they point to the need for more open space, landscaping, and better planning in urban areas.

Clearly the problems of the urban environment are staggering and warrant a concerted national effort. But this fact should not obscure the importance of what becomes of the rest of the American landscape. This landscape provides indispensable relief from the less hospitable aspects of the urban landscape. Non-urban lands are a place of refreshment, refuge, and recreation as well as a source of commodity supply. They are a complementary part of the environment that needs to be handled less roughly. Some of the most impressive parts stand in danger of being spotted with mining dumps, indiscriminate logging, power lines, and road cuts. Superlative areas such as Mount Baker in Washington State have already been defiled in this manner.

The most logical place to begin developing a national landscape policy is on public lands. One-third of the surface of this nation is

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owned by the federal government.[1] This vast real estate holding is administered principally by the Bureau of Land Management, which administers 480 million acres, and the Forest Service, which administers 186 million acres.[2] These lands, and those administered by the National Park Service and the Bureau of Sports Fisheries and Wildlife are among the nation's most scenic. Here model programs of stewardship can be applied to lands already under public control. It would seem self-evident that these agencies should pledge themselves to protect the natural beauty which is found on the lands placed under their custody. Yet they have not clearly done so. The policies established by these agencies do not contain a straightforward commitment to protect scenery as a public value. This is the case partly because of commercial conflicts, but even more because concepts of natural beauty are still embryonic and fragmentary. By drawing existing experience and policy together, a useful start could be made toward developing a national landscape policy for public lands.

I. IDENTIFYING SCENIC LANDS

A. *Theory*

The modern empirical mind has difficulty in coming to grips with the concept of natural beauty. In principle, its value may be acknowledged, but because it is indeterminate and undefinable, it tends to be treated in practice as an unreal quality. Land planners and managers tend to regard natural beauty as a hopelessly elusive concept. When the subject is raised, it is easy to retreat into total subjectivity — *Chacun à son goût,* or, everyone to his own taste.

Yet total subjectivity would deny the existence of art or beauty as a concept having public value. Historically, artistic achievement has been an important index of the worth of a civilization. Where the leaders of a civilization could make a choice, they have chosen personal surroundings which most would describe as having elements of natural beauty. Among such leaders there does seem to be some agreement that certain surroundings are more desirable and valuable than others. Should similar surroundings on lands available to the public be valued any less?

Up until the 20th century, philosophers dealing with esthetics have touched upon the subject of natural beauty only intermittently, and in the 20th century they have done so hardly at all. Some philosophers have asserted that natural beauty is an objective quality, but Santayana asserted at the end of the 19th century that it had an

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[1] BUREAU OF LAND MANAGEMENT, U.S. DEP'T OF INTERIOR, PUBLIC LAND STATISTICS 1966, at 1, 11. This includes Alaska, which is about 98 percent federally owned. The figure for the 48 states is roughly one-fifth.

[2] *Id.* at 14-18.

objective quality only in the sense that there is a prevalent and lasting affinity between those with an esthetic capacity and certain types of scenery.[3] In other words, natural beauty can be defined by patterns of susceptibility of those whose esthetic faculties are acknowledged in a culture. This approach may smack of elitism, but no more so than in the design arts. The artistic is usually identified by those who specialize in artistic pursuits.

In the area of natural beauty, one would expect then that landscape architects would be the guiding specialists. To a degree this has been so, but the profession has been more concerned with practical questions of integrating man-made constructs into the landscape than it has with analyzing components of natural beauty. The profession's contributions must be viewed in the context of the relationship that specific design projects have to other land management programs.

B. *Present Approaches*

Primarily in response to increasing needs for outdoor recreation, planners and land managing agencies have evolved programs reflecting an interest in the character of the landscape. These programs reveal limited ways of approaching natural beauty, of identifying its characteristics, inventorying its extent, and according it suitable protection.

Four basic approaches are implicit in these programs. The most prevalent approach is to identify landscapes that attract people for different recreational pursuits, such as boating, fishing, picnicking, and hiking. In areas suitable for such uses, other conflicting activities are often restricted. Similarly, a second approach consists of identifying travel routes and protecting the setting along them from disfigurement. Here natural beauty is guaranteed in a negative sense by the prevention of ugliness. A third approach focuses on the landscape itself and consists of an effort to identify the most visually striking and dominant elements. A fourth approach pragmatically attempts to determine public preferences by standards of popularity and accords protection to those landscapes drawing the greatest use. While all of these approaches have their limitations, an examination of each may suggest ways of progressing further through a synthesis of them.

1. Recreational Inventories

When the Congress authorized establishment of an Outdoor Recreational Resources Review Commission in 1958,[4] many conserva-

[3] G. SANTAYANA, THE SENSE OF BEAUTY 130 (1955).

[4] 16 U.S.C. § 17k (1964).

tionists expected the Commission to devise a classification system for inventorying recreational lands and that such an inventory of public holdings would be conducted. However, the Commission only devised a broad system for classifying lands, and the job of conducting the inventory was left in succeeding years to the Bureau of Outdoor Recreation (BOR).[5]

The Forest Service, however, did conduct its own inventory in 1959 — the National Forest Recreation Survey (NFRS). National forest lands throughout the nation were inventoried according to their usefulness for various recreational pursuits: camping, picnicking, swimming, skiing, boating, hiking, wilderness travel, hunting, fishing, et cetera. Detailed location maps and statistical summaries were prepared. This information has never been published but is used for planning purposes by individual national forests. By combining data on inventoried sites for those activities which are sensitive to landscape appearance, some measure of the extent of landscapes deserving protection could be derived. In addition to this inventory of recreational potential, the Forest Service, of course, has a system of well-established areas: camp grounds, recreation areas, scenic areas, wilderness areas, natural areas, and botanical areas.[6]

The Classification and Multiple Use Act of 1964[7] authorized the Bureau of Land Management to classify public domain lands for sale, transfer, or retention and to designate portions retained for various purposes, including recreation. Under implementing regulations, the Bureau plans to designate recreation areas of several thousand acres "where recreation is or is expected to be a major use."[8] Examples of such areas include "[s]cenic areas of natural beauty such as waterfalls; habitat of interesting, rare or unusual plants or animals; gorges; natural lakes; geological areas of outstanding structural or historical features of the earth's development such as caves, glaciers and other phenomena; roadless areas in which the primitive environment is preserved, sometimes referred to as wilderness, wild, primitive, roadless or virgin areas."[9] While the Bureau has withdrawn some areas of this type from mineral entry and disposal, little has been accomplished in designating recreation areas. This work is awaiting completion of basic classification of land for disposal or retention in public ownership. Until the recommendations of the Public Land Law Review Commission[10] are

[5] 16 U.S.C. § 4601 (Supp. I, 1965).

[6] Reserved under Forest Service Reg. U-3 and 16 U.S.C. §§ 1131-36 (1964).

[7] 43 U.S.C. § 1411 (1964).

[8] 43 C.F.R. § 1727.1(b)(1) (1967). The first such area, the Red Rocks Recreation complex, was officially established in December 1967, outside Las Vegas, Nevada.

[9] *Id.*

[10] 43 U.S.C. §§ 1391-1400 (1964).

received and acted upon, little progress may be made toward recreational designations. When made, however, these designations will be broad enough to constitute an inventory of many of the more interesting landscape features on the public domain.

The establishment of a uniform system for classifying outdoor recreation resources was one of the principal recommendations of the Outdoor Recreation Resources Review Commission (ORRRC).[11] A system comprised of six categories was outlined, to aid inventory of public recreation resources and to promote orderly management of these resources. The system has now been adopted by major federal land management agencies, including the Forest Service, the Bureau of Land Management, and the National Park Service. In a preliminary way the system has been applied to public holdings under these agencies, and the data presumably will be part of the Nationwide Outdoor Recreation Plan which the Bureau of Outdoor Recreation will submit to Congress in 1968.

Five of the six classes of land under the system pertain to areas where the retention of natural beauty is a major objective: high density recreation areas (Class I), general outdoor recreation areas (Class II), unique natural areas (Class IV), primitive areas (Class V), and historic and cultural sites (Class VI).[12] Only natural environment areas (Class III) include major commercial activities, such as logging and mining, which could significantly detract from the appearance of the landscape. Of the other five classes, two in particular are designed to cover large expanses: unique natural areas and primitive areas. Unique natural areas are "areas of remarkable natural wonder, high scenic splendor, or scientific importance."[13] The inventory of such areas in public ownership should constitute the beginning point for a national landscape policy. The ORRRC report recommended that all such areas inventoried "should be preserved for inspirational, educational, or scientific purposes."[14]

The six classifications need to be refined further to make it clear whether the categories are mutually exclusive, as for instance Classes IV and V, and to determine whether Class III areas are disqualified because of the amount of conflicting disturbance by commercial activities. Once definitions are clearer and uniform approaches are prescribed by the Bureau of Outdoor Recreation, the classification system should render valuable data regarding portions of public holdings where landscape values are highest. At the present time, however, the National Park Service and the Forest Service are apply-

[11] OUTDOOR RECREATION RESOURCES REVIEW COMMISSION, OUTDOOR RECREATION FOR AMERICA 96-97 (1962).
[12] *Id.* at 109.
[13] *Id.* at 110.
[14] *Id.*

ing the classifications in a different manner, and the Bureau of Land Management is going to limit application of the classifications to lands already designated for recreation, even though its recreation designations and BOR classifications are not coextensive.

2. Scenic Routes

Because most people are introduced to wildlands by highways, main through roads have become a a focal point for much discussion of natural beauty. Since the early 1920's, landscape architects have been involved with choosing routes for parkways and scenic roads and with protecting and improving their settings.

In a recent report on scenic roads and parkways prepared for the President's Council on Recreation and Natural Beauty, the Department of Commerce suggests factors in comparing alternative routes to determine which are most scenic.

> Mountains must be higher, more rugged, more unusual in their setting, more dramatic, and more visible.
>
> Bodies of water must be deeper, bluer, cleaner, wilder, faster moving, etc.
>
> Flowers and wildlife must be colorful, more varied, more plentiful, and more easily seen.
>
> Landscapes must be more varied, more interesting, and have more impact in terms of visible resource uses, panoramas, contrasts, harmony, and National or State significance.[15]

In choosing scenic routes, landscape architects in the state of Washington used these criteria: "(1) surface qualities and configuration of observed features; (2) three-dimensional quality of objects and their landscape interrelationships; and (3) the quality of viewpoints and the landscape visible from them."[16]

A corollary of these efforts to determine positive esthetic qualities is a concern for preventing disfigurement. In Germany controls on land use along highways include "restrictions against disfigurement," defined as a condition which "offends the sensibility of an esthetically intelligent observer."[17] In Wisconsin where the state has bought over 300 miles of scenic easements along its highways, scenic beauty is measured "by the absence of things; the absence of signs, of junkyards and trash, of lime quarries and garbage dumps."[18] The state's chief acquisition officer says that the more deeply involved you become in preservation work the more you find that no one is an expert on beauty. In the face of a legislative directive to "protect

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[15] U.S. DEP'T OF COMMERCE, A PROPOSED PROGRAM FOR SCENIC ROADS AND PARKWAYS 171 (1966) [hereinafter cited as SCENIC ROADS].

[16] *Id.*

[17] C. TUNNARD & B. PUSHKAREV, MAN-MADE AMERICA: CHAOS OR CONTROL? 35 (1963).

[18] Leverich, *The Preservation of Scenic Beauty,* in JUNKYARDS, GERANIUMS, AND JURISPRUDENCE: AESTHETICS AND THE LAW 154 (Am. Bar Ass'n 1967).

scenic resources," he asserts that though "we may not know exactly *what* they are, or what we are doing, . . . we *are* protecting beauty."[19] Restrictions on billboards and junkyards along federal interstate highways reflect the same concern for minimizing intrusions into the natural scene, as does a growing concern with the routing of high voltage transmission lines.[20]

In the national forests, protective zones are now defined along main travel routes and water courses. Called travel and water influence zones, these zones include portions of the lateral view zones visible from highways, railroads, trails, tramways, rivers, lakes, and reservoirs. They are to be reserved wherever (1) the scenery is an important part of the environment, *and* (2) public use is significant.[21] In California, the Forest Service plots distant view zones out three miles or more from the travel route. The zones vary in width according to visibility and other factors, with greater protective measures applied to close areas.

The Forest Service in California (Region 5) is unique in directing in its regulation that "[f]orest resources are to be managed to provide protection of scenic values."[22] No other office of the Forest Service or other federal land management agency involved in commodity production is willing to make this basic commitment to protect the public interest in scenery. In practice, however, the commitment is less than complete. In the Pacific Northwest, the Forest Service is also willing to extend protection to landscape features beyond major roads and water courses. In upper elevation forests — those between 3000 and 5000 feet — landscape protection is also extended to scenery around (1) small lake basins and combinations of lakes, meadows, and clump-like stands of timber; (2) rock outcrops, avalanche chutes, and other terrain breaks of scenic significance; and (3) the timbered fringes of alpine areas.[23] No test of significance in terms of public use is applied to these areas. At such elevations, conflict with commercial timber values usually is slight. At lower elevations, where timber values are great, protection is not accorded to such features unless they fall within travel and water influence zones.

Areas receiving protection within such zones or in upper elevation forests are called landscape management units. These units

[19] *Id.* at 158.

[20] *E.g.*, Highway Beautification Act of 1965, 23 U.S.C. §§ 131, 136, 319 (Supp. I, 1965); proposed amendments to the Federal Power Act cited *infra*, note 53. *See also* Professor Cunningham's discussion of scenic easements in the highway beautification program elsewhere in this issue.

[21] *See* McCloskey, *Landscape Protection in National Forests*, 48 ORE. L. REV. (Fall 1968).

[22] *Id.*

[23] *Id.*

usually do not coincide completely with inventoried recreation sites. Presently the Forest Service has set aside 933,900 acres of such units in the Pacific Northwest and 804,000 acres of them in California, amounting to about 4 percent of its holdings in both regions. Comparable nationwide figures are not available.

3. Landscape Patterns

A number of approaches to integrated land planning for large areas are now being developed and evaluated.[24] Few, however, focus on the character and quality of the landscape. One method which does was developed by Philip H. Lewis, Jr., for use in developing an outdoor recreation plan for Wisconsin.[25] Lewis, a landscape architect, developed a rough system for rating the quality of landscapes by the prominence of various natural features: streams, lakes, wetlands, other water features, topography, fauna, and other special features such as caves, chasms, rock outcroppings, and natural bridges. These features were given points according to their size, frequency, or uniqueness. By mapping locations of these features and preparing composite overlays, environmental corridors were depicted on maps. These are land units which embrace high concentrations of these features, as well as collections of many more detailed local features of recreational, scenic, biological, geologic, or historic importance. Lewis' most significant discovery was that he found that environmental corridors identified by major landscape features in Wisconsin also turned out to include 90 percent of the attractive local features that were identified separately. His rating system showed which parts of the environmental corridors had the highest public values calling for protection.[26]

While Lewis' system is not based primarily on view zones identified on the ground, it does appear to have been successful in finding the areas that will be most attractive to the public in a variety of complex ways. Further research is being done on his system, and a similar and even more elaborate survey of the same type has just been conducted in the coastal regions of England by the Nature Conservancy.[27]

4. Pragmatic Planning

Despite Lewis' concrete, quantitative approach, some planners regard his methods as value-laden and based on romantic commit-

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[24] *See, e.g.*, LANDSCAPE ARCHITECTURE RESEARCH OFFICE, GRADUATE SCHOOL OF DESIGN, HARVARD UNIVERSITY, THREE APPROACHES TO ENVIRONMENTAL RESOURCE ANALYSIS (1967).

[25] WISCONSIN DEP'T OF RESOURCE DEVELOPMENT, RECREATION IN WISCONSIN (1962).

[26] LANDSCAPE ARCHITECTURE RESEARCH OFFICE, *supra* note 24, at 50.

[27] *Id.* at 88.

ments to naturalism.[28] Alternatives appear to consist of a never-ending quest for scientific certainty in an area of human judgment and preference, or a pragmatic approach consisting of giving the public what it wants.

The Commerce Department report on scenic roads suggests, "A pragmatic approach would be to determine the public's relative use of various routes which offer particular types and mixes of recreation and landscape resources. . . . Like a merchant, the planner learns by experience which styles offer the greatest and most lasting appeal to his customers. He also discovers the optimum mix of 'goods,' recreational in this instance, to be carried in his inventory."[29]

In this vein, some recreation researchers are testing public reactions to various views by interviewing, counting crowds, clocking the duration of visits, and counting the number of repeat visits. Laboratory experiments are being designed to test eye movements in response to slides of different scenes. Curiously enough, the billboard industry is using a major research institution to try to prove through such tests that the public really doesn't notice billboards and that some classes of people are bored by open country.[30] Though measurements of mass tastes may reveal some unsuspected preferences, inherently the approach suffers from the fact that mass taste has never been regarded as synonomous with good taste. As taste is a variable of education, experience, and other socio-economic factors, mass tastes can be expected to change as these factors improve. Moreover, while pragmatic planning may assure that certain minimum recreation facilities are provided, it cannot assure that subtler aspects of environmental quality receive sufficient attention.

5. Summary

The first step in devising a workable landscape policy for public lands consists of an inventory of scenic resource associations. As we have seen, acceptable criteria and classifications for such an inventory are not easy to formulate.

Nevertheless, a good beginning can be made by combining inventory data now partially in hand. By preparing composite maps showing the combined extent of the five BOR classes which disallow commodity use, as well as the extent of Forest Service and Bureau of Land Management recreational inventories, along with national forest Landscape Management Units, a pattern would probably emerge which would identify the majority of the most impressive

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[28] *Id.* at 91.

[29] SCENIC ROADS 171.

[30] Herrmann, *Using Research Experimentation to Improve the Urban Environment*, in JUNKYARDS, GERANIUMS, AND JURISPRUDENCE: AESTHETICS AND THE LAW (Am. Bar Ass'n 1967).

and irreplaceable scenic features in public ownership. This inventory pattern could serve as the first corpus for a national landscape policy. Probably less than 10 percent of the public landscape would fall within this pattern.

As a second step, the adequacy of inventory data should be reviewed, both to find areas that were overlooked and to resolve inconsistencies in inventory technique. The crests of most western mountain ranges, for instance, should probably be in the inventory, but these probably have not all been included in inventories made to date.

As a third step, the composite pattern could be tested against techniques such as Lewis'. Ideally, his inventory technique, refined in the light of the English coastal survey and criteria used in some scenic highway studies, could be applied to all public holdings to determine whether significantly different patterns emerge. If they did, a choice would have to be made between techniques based on evaluations of their comparative strengths. If the differences were minor, they could be resolved through local assessments in the field. If budget limitations make it difficult to apply the Lewis approach generally, it could be spot tested in random cases to discover similarities and disparities. Spot testing might be sufficient to test the adequacy of existing inventory data.

II. PROTECTION

Once the most valuable public landscapes have been identified, it is natural to ask what protection should be accorded to them. Under a variety of broad statutory mandates and administrative regulations, protection of differing sorts is already being given to much of the landscape in question here. Weaknesses, gaps, and inconsistencies, however, pervade these protective policies. As a matter of public policy, strong, uniform, and consistent protection measures should be applied to the holdings of the federal government.

A. *Zoning*

The beginning point for most existing protective policies is identification of easily damaged natural zones within landscape units. Obviously greatest protection is given to the more sensitive zones. Zones are identified according to ecological factors, recreation patterns, and visual criteria. Ecological factors embody such considerations as soil erosibility, hardiness or fragility of vegetative cover, and habitat needs of wildlife. Recreation factors include the nature of the satisfactions sought in a recreational pursuit, the relationship of these to the terrain, use and movement patterns, seasonality, and site

dependence. National forest multiple use plans for ranger districts, as well as NFRS and BOR inventory data, reflect concern for a combination of ecological and recreational factors, though often in a rudimentary way.

Visual criteria for zoning landscape units have been articulated mainly in schemes for scenic roads and parkways and in the Forest Service's landscape management units. Along scenic roads the concept of a scenic corridor has been developed, which is "defined by landscape elements such as land forms, large bodies of water, trees or other vegetation, and manmade objects which restrict the view of the observer."[31] In the Commerce Department study the corridor consists of an inner and outer zone, the inner part of which may extend out perhaps as far as 500 feet from the roadway.[32] While the outer zone may extend as far as the horizon, attention is focused on the inner zone or foreground area where scenic easements may be acquired. Boris Pushkarev advocates purchase of scenic easements in a visual control zone extending out 1000 feet on either side of the scenic highway.[33]

In Wisconsin, scenic easements usually include restrictions against (1) disposal of trash; (2) erection of advertising signs; (3) removal or uncontrolled excavation of surface materials; and (4) denuding the area.[34] Scenic easements acquired by the National Park Service along the Blue Ridge Parkway in Virginia and North Carolina and along the Natchez Trace Parkway in Alabama, Mississippi, and Tennessee include even stronger restrictions. They go on to (1) prohibit unauthorized cutting of trees and shrubs, though certain maintenance is planned; (2) restrict construction of new buildings and structures; (3) control erection of new public facilities and utilities; and (4) prevent any activity which detracts from the appearance of the property.[35]

In its landscape management units, the Forest Service in California also identifies inner and outer zones, which it calls near and distant view areas. Where the line of sight is unobstructed, the near view zone ends at the first major terrain break or at that point where high stumps can no longer be clearly seen. This distance might be as much as a mile from a road or lake. The distant view zone might extend out as far as 3 miles or to the point where a 10 or 20

[31] SCENIC ROADS 43.

[32] *Id.* at 50.

[33] C. TUNNARD & B. PUSHKAREV, *supra* note 17, at 261.

[34] R.C. Leverich, Understanding a Scenic Preservation and Enhancement Program (report to Seminar on Right of Way Acquisition, Am. Right of Way Ass'n, Madison, Wis., Sept. 30, 1967).

[35] SCENIC ROADS 51.

acre clear-cut logging unit might become obscure. In the Northwest, the Forest Service breaks down the near view zone into an occupancy zone, an immediate foreground zone, and a primary foreground zone. The occupancy zone would include the site for a campground, for instance. The immediate foreground zone includes that part of the forest where trunks and ground cover are viewed from the occupancy zone. The primary foreground consists of the forest beyond where the canopy is viewed at close range.

Within occupancy zones, only selective sanitary logging is allowed to remove dangerous and diseased trees. Certain types of light cutting for non-commercial purposes are allowed in the immediate foreground zone. Finally, in the primary foreground zone commercial logging is allowed, but its methods are modified to lessen adverse impact on the scenery. In California, restrictions are even greater. Within near view areas, no clear cutting is allowed save in exceptional cases. In distant view areas, clear cutting is permitted but no more than one or two clear cuts are allowed in any one vista, and these are to be natural in shape, with those in the center of views kept smaller than those at the periphery. Additional restrictions are placed on logging techniques and on the standards and location of logging roads so as to minimize visible scars.[36]

In any properly elaborated landscape policy, a landscape zoning system similar to that used by the Forest Service in its travel and water influence zones could be applied to all units in the landscape inventory of public lands. The Bureau of Land Management does not yet use such a system, even though in places in Oregon its logging units abut Forest Service holdings. It is illogical for two federal agencies managing forest resources side-by-side to treat the landscape in far differing fashions. Moreover, the Forest Service's system should not be limited just to areas where public use is significant. It is manifestly difficult to foresee trends in public use, and in many cases protective measures must be taken for periods beyond the foreseeable future. Even where public use is light, as in wilderness, public values may be great. A nation as rich as ours can afford to protect its natural scenic endowment regardless of present or easily foreseeable intensities of use.

The Forest Service's visual criteria for zoning landscape units can be combined with ecological and recreational data to produce maps showing sensitive zones. Protective restrictions can be elaborated for each zone to fit the degree of sensitivity, although within wilderness areas, the restrictions are set by the Wilderness Act.[37]

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[36] McCloskey, *supra* note 21.

[37] 16 U.S.C. §§ 1131-36 (1964).

B. *Management Restrictions*

Most federal land management agencies presently have restrictions against many of the activities that scenic easements and other controls are designed to prevent on private lands which abut public roads. Thus, dumping and signs are generally not a problem on public lands, though violations do occur and policing, no doubt, could improve. Borrow pits, gravel piles, excavations, and mines, however, are more of a problem. There is a growing tendency to hide borrow pits from main views, but consistent policies are needed to keep these out of sensitive landscape areas. Excavations made under the Mining Act are a major problem in that the administering agency usually does not participate in the choice of their location, which is a matter of private option.[38] But conspicuous excavations should certainly be kept out of sensitive zones wherever possible, through mineral withdrawals if necessary. Certainly, no minerals should be offered for lease under the Mineral Leasing Act[39] in sensitive zones.

The construction of public buildings, utilities, and transport facilities also needs to be carefully controlled. While these are sometimes necessary to service the recreation public, they also can seriously mar the landscape, as where wide swaths are cleared for power lines. Wherever possible, the amount of building in sensitive zones should be minimized by transferal to other less sensitive zones, and preferably to locations completely outside landscape units. Finally, administering agencies need to impose strict limitations on the amount of commercial activities they allow in sensitive zones. Logging, grazing, and road construction can all be controlled under existing authority. Commercial pressures for these activities, however, will generate a reluctance to impose significant limitations unless national policy requires it.

C. *Harmonizing Intrusions with the Landscape*

The degree to which various human constructs and activities are thought to intrude upon the landscape depends on how the landscape is perceived. Apologists for commercial activities usually assert either that their activity is inherently interesting and therefore ought to be welcomed or that in any event their activity is too important economically to be circumscribed.[40] Conservationists usually assert that nature is not improved upon by human constructs and that the prevention of disfigurement is the closest practical guide we can devise to safeguard natural beauty. Thus, they stress maximum restrictions on human intrusions.

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[38] 30 U.S.C. § 22 (1964).

[39] 30 U.S.C. §§ 181 *et seq.* (1964).

[40] McCloskey, *supra* note 21.

The design professions occupy something of a middle ground. Landscape architects, in particular, have a basic commitment to the premise that man-made constructs can be insinuated into the landscape with pleasing results. Though they have little to offer in the way of theory to justify this premise, the results of their art have often been successful enough to warrant some confidence. If landscape architects controlled decisions on the degree and manner of integrating intrusions into the landscape, doubtless the problems could be narrowed considerably. All too often, however, landscape architects are employed by public agencies only to make the best of a placement and design decision that someone else has already made. In the Forest Service, for instance, landscape architects generally cannot advance from the role of supporting staff into the line of authority, an area traditionally reserved for foresters.

Even if landscape architects were given free rein, some basic problems would remain. Robert Twiss and Burton Litton have pointed out that the landscape is perceived not only as the locus of natural forces but also as a place that is understood in terms of associated meanings and images, as well as in terms of its visual components.[41] One's reaction to the landscape is colored by one's attitudes, experiences, beliefs, values, and expectations. Those who feel insecure in natural areas may welcome marks of man, while those who are fleeing the clutter of the cities may resent its following them into the mountains. Man's intrusions into the landscape may also affect the ability of the landscape to evoke strong and satisfying images. These images may have a symbolic significance which transcends their visual impact. It is difficult to know what symbolic import results by changing images of the landscape.

Even leaving images and associated meanings aside, little has been done in the field of visual analysis of the natural landscape. The only treatment of the subject that seems helpful grew out of 19th century romanticism and landscape painting, little having been done since. In the 18th and 19th centuries there was a revival of interest in the classical distinction between the sublime and the beautiful. Whereas the beautiful referred to customary subjects of painting and sculpture — royalty, ruins, the gods, and familiar forms — the sublime meant those scenes in nature having powerful, awesome, and monumental effects.[42] The romantic writers' discovery of the Alps prompted continuing discussion of the paradox posed by the sublime: how could anything terrifying also be attractive? There was no doubt

[41] Twiss & Litton, *Resource Use in the Regional Landscape*, 6 NATURAL RES. J. 76 (1966).

[42] *See* McCloskey, *The Wilderness Act of 1964: Its Background and Meaning*, 45 ORE. L. REV. 288, 290 (1966).

that sublime scenes in the Alps were attractive. Santayana suggested that an "epicurean equipoise" was engendered.[43] Gradually as the mountains were explored and climbed, terror subsided with knowledge, and the paradox became less acute.

Writers on art, like Ruskin, theorized about what gave the Alps their charm. In contrasting lowland forests to those in the Alps, he pointed to the "power of redundance — the mere quantity of foliage visible in the folds and on the promontories of a single Alp being greater than that of an entire lowland forest."[44] In addition to redundance, he pointed to the fact of "clearer visibility — tree after tree being constantly shown in successive height, one behind another, instead of the mere tops and flanks of the masses, as in the plains."[45] He also identified distance as an important factor in natural composition. "Are not all natural things, it may be asked, as lovely near, as far away? Nay, not so. . . . If you desire to perceive the great harmonies of the form of rocky mountain, you must not ascend upon its sides. . . . If you approach nearer, that kind of beauty is lost, and another succeeds, to be disorganized and reduced to strange and incomprehensible means and appliances in turn. . . . For every distance from the eye there is a peculiar kind of beauty, or a different system of lines of form; the sight of that beauty is reserved for that distance, and for that alone. . . . [T]he discrepancy between apparent and actual beauty is greater in proportion to the unapproachableness of the object."[46]

Both Ruskin's theories and fashions in landscape painting stressed the importance of distant and elevated views. From the 17th century to the 19th century, it was common for artist's landscapes to look out from a promontory toward a distant scene. The painting is organized around a horizon line, which may be in either the bottom or upper third of the frame. A series of diagonal lines or curves usually wend their way toward the horizon line from one of the lower corners, creating a sense of depth and the basic structure of the composition. The angular structure of the picture is usually offset by large mounds of foliage at the sides or by clouds if the sky is a major feature.[47] The eye is usually led to a vanishing point near the center of the picture just above the horizon. No feature is ever placed in the center of the picture to distract from the vanishing point.

Though real landscapes are not viewed through static view frames, these 19th century studies stand as testimony from the artistic

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[43] G. SANTAYANA, *supra* note 3, at 241.

[44] SELECTIONS FROM RUSKIN 92-93 (Allen ed. 1893).

[45] *Id.*

[46] *Id.* at 103-04.

[47] K. CLARK, LANDSCAPE INTO ART 47-53 (1949).

community on the importance of distant views. Such views are not accorded much protection under current policy, nor are they thought to be of much importance. Much of the power of the sublime still exists, however, and the critical importance of what happens near the horizon line should not be forgotten. As Ruskin suggests, the eye is often drawn to the most naturally perfect composition, and new lines and forms should not be intruded into the scene without thought of impact on the composition. Angular road scars, for example, may completely work against a natural interplay of rounded hills, destroying the balance of the composition. Although a compositional analysis of the landscape may not produce conclusive answers, landscape architects should at least be given the opportunity to think in these terms.

III. AUTHORITY

The organic acts of federal land management agencies appear to be broad enough to support promulgation of a national landscape policy for public lands. The Forest Service's Organic Act of 1897 permits zoning to protect forests,[48] and the Multiple Use-Sustained Yield Act of 1960[49] clearly authorizes allocation of land to such non-commercial purposes as recreation and wilderness.[50] The Bureau of Land Management's Classification and Multiple Use Act is only interim legislation, but as long as it lasts it too authorizes allocations of indeterminate extent for various non-commercial purposes.[51] These are the two main agencies which would be affected by a landscape policy, as the National Park Service and the Bureau of Sports Fisheries and Wildlife are already managing their lands under restrictions against significant commercial use.

In light of the broad statutory authorities which presently exist, a viable national landscape policy could be brought into existence by executive order, or by agreement of the President's Council on Recreation and Natural Beauty. This latter committee consists of the secretaries of the following departments: Interior; Agriculture; Defense; Transportation; Health, Education, and Welfare; Housing and Urban Development; and the chairmen of the Federal Power Commission and Tennessee Valley Authority; and the Administrator of the General Services Administration.[52] Through agreement of the

[48] 30 Stat. 35 (1897), *as amended*, 16 U.S.C. § 551 (1964).

[49] 16 U.S.C. §§ 528-31 (1964).

[50] *See* Note, *Natural Resources — National Forests — The Multiple Use-Sustained Yield Act of 1960*, 41 ORE. L. REV. 49 (1961).

[51] 43 U.S.C. § 1411 (1964). This act has been extended to remain in force pending the recommendations of the Public Land Law Review Commission. Pub. L. No. 90-213, § 2 (Dec. 18, 1967), 81 Stat. 660, *amending* 43 U.S.C. § 1418 (1964).

[52] Exec. Order No. 11017, 3 C.F.R. 597 (1962), 16 U.S.C. § 17k (1964), *as modified by* Exec. Order No. 11278, 3 C.F.R. 107 (1966), 16 U.S.C. § 17k (Supp. II, 1966).

members of this Council, a policy could be devised which all agencies could pledge to observe, to the extent that their governing statutes permit.

In the course of time it would be desirable to have certain statutes amended to give the land managing agencies broader authority to resist undesirable intrusions. For instance, the Federal Power Act could be amended to allow dams and reservoirs to be kept out of landscape zones except in extraordinary cases. Currently pending legislation which would give the Federal Power Commission authority to regulate routing of transmission lines would also allow the Commission to consider landscape values in its determinations;[53] this legislation could be strengthened even further in this regard. The Department of Transportation Act gives parks and wildlife refuges protection against invasion by federally aided highways, unless there is no feasible and prudent alternative route.[54] This legislation could also be broadened to recognize wider landscape values. Finally, the Mining Act of 1872 needs to be reformed to make mineral entry a matter of governmental grant where it is desirable, and not a matter of private right. By placing all minerals under the Mineral Leasing Act, landscape zones could be given appropriate protection.[55]

IV. SUMMARY

Josiah Royce felt a community's appearance reflected its ideals. By the same token, the appearance of the national landscape is a commentary on America's ideals. If our ideals still have vitality, we will take conscious action to protect that which is best and most unique in our American landscape. This action should find expression in a national landscape policy.

The place to begin applying such a policy is on the lands we all own in common, the federal lands administered by the Department of the Interior and the Department of Agriculture. The first step in developing such a policy consists of an inventory to determine which lands are most scenic. Existing data can be combined to produce a composite picture, which can serve as a point of departure. Further refinements can follow. As a second step, the most sensitive zones can be identified, with heaviest restrictions on commercial intrusions applied in these zones. Drawing upon both theory and practice, landscape architects can decide on the degree to which various intrusions can be accepted. As a third and final step, various statutes can

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[53] *See, e.g.*, H.R. 12322, 90th Cong., 1st Sess. (1967).

[54] 80 Stat. 934 (1966), 49 U.S.C.A. § 1653(f) (Supp. 1967).

[55] *See* McCloskey, *Can Recreational Conservationists Provide for a Mining Industry?*, 13 ROCKY MT. MIN. L. INST. 65 (1967).

be improved by amendment to give the administering agencies greater authority to protect landscape zones.

The federal government should pledge itself to do its part to keep America beautiful. While a broadly conceived national landscape policy would be no panacea, it could serve as a framework for evolving uniformly high standards of esthetic stewardship on public lands.