

PRESIDENT'S MESSAGE

Landmarks, Soils, Streams, Regulations, and NEPA

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In Wyoming's Teton Wilderness, a unit of the National Wilderness Preservation System administered by the Forest Service, North Two Ocean Creek rises on the Continental Divide and flows south to a large meadow. There, at a place called Parting of the Waters, the stream splits. To the east, the stream is appropriately called Atlantic Creek. Atlantic Creek is a tributary to the Yellowstone River and eventually the Missouri River, the Mississippi River, and the Gulf of Mexico. To the west, the watercourse is Pacific Creek. This stream is a tributary to the Snake River, which in turn is a tributary to the Columbia River and the Pacific Ocean. Although there are probably other places on watershed divides where this phenomenon occurs, it is not common, and the site is unique enough to earn the designation of National Natural Landmark. The site is not well labeled if you do not have a detailed map. If you wish to find it with map software, the approximately coordinates are 44°3' N and 110°10' W.

The National Natural Landmark system is designed to represent the nation's geologic and biological history and to strengthen the public's appreciation of our natural heritage (NPS, 2014a). Although little known, the program has been around since the 1960s and includes both public and privately owned sites. The designation occurs with landowner concurrence. There are about 600 sites.

Environmental practitioners may perhaps be a little more familiar with a similar effort on historic sites, designated national historic landmarks. There are about 2,500 historic landmarks, which are designated because they possess exceptional value or quality in illustrating or interpreting the

heritage of the United States (NPS, 2014b). An example of a National Historic Landmark in the same area that I recently had the opportunity to visit is the Jackson Lake Lodge complex, with its spectacular two-story picture window in the lobby overlooking the Grand Tetons near where Pacific Creek enters the Snake River. The lodge, built in 1955, was deemed of such national significance that it was designated a historic landmark before reaching 50 years of age, which is the usual threshold for consideration of a historic property under the National Historic Preservation Act (NHPA). The rustic architecture makes it a distinctive national park lodge, in the same way that older lodges, such as Old Faithful Inn, are characteristic of the national park system. According to the landmark nomination (NPS, 2003), "Jackson Lake Lodge fulfilled the vision of John D. Rockefeller, Jr. who had hoped the design and operation of the modern lodge would serve as 'a pilot project' for future National Park Service facilities." Rockefeller was responsible for acquiring land in Jackson Hole and donated it to create Grand Teton National Park in 1950. Incredibly, the creation of Grand Teton National Park, with all of its conservation and economic benefits (such as being a tourism gold mine) to the state, was controversial—similar to the creation of many parks today. The nomination continues, "the lodge garnered immediate and national coverage in contemporary design periodicals and generated discussion amongst federal planners and architects. The association of Rockefeller and his architect, Gilbert Stanley Underwood, with Jackson Lake Lodge legitimized the future adoption of modern architecture within the National Park system." From the grand lobby, I could see a moose grazing in the wetlands below between the lodge and the Grand Tetons. It is hard not to be awed by the setting and the vision of those who created Jackson Lake Lodge and Grand Teton Park.

The Greater Yellowstone ecosystem came to mind as I read about current efforts to

clarify the extent of the waters of the United States under the Clean Water Act (CWA). A new rule proposed in 2014, responding to recent court decisions that attempt to limit the jurisdiction of the CWA, attempts to clarify which streams and wetlands are protected under Section 404. The rule encompasses tributaries and adjacent waters, such as in riparian areas and floodplains.

The fact that a creek on the Continental Divide can be a water of the United States and jurisdictional under the Clean Water Act is troubling to those who do not like environmental regulation. Attempts to limit the jurisdiction to avoid tributary streams will no doubt continue. Nevertheless, without including the full tributary system of the nation's waters, water pollution will be difficult to regulate (Wood, 2014). An example near the Yellowstone Ecosystem of what can happen on upstream tributaries close to the Continental Divide is perhaps illustrated by the Superfund site of the Clarks Fork, downstream from Butte, Montana, where mining has introduced persistent pollutants that degrade waterways for 100 miles downstream.

The National Environmental Policy Act (NEPA) and the Clean Water Act can be viewed as contrasting examples of water policy. NEPA would apply to any federal action anywhere, including on a stream,

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while to invoke the Clean Water Act, an action must first be jurisdictional. Thus, the values of a given tributary must be considered under NEPA, regardless of whether it is jurisdictional. In contrast, the Clean Water Act, would provide scrutiny for nonfederal activities. Both laws afford the opportunity to examine and weigh projects near the Continental Divide, and throughout the country, to determine if they are in the public interest. This ability to fully evaluate projects that can affect waters far downstream is desirable and should not be given up easily.

Environmental protection is often taken for granted in the United States, partly because of the success of laws such as NEPA, NHPA, the Endangered Species Act (ESA), the Clean Air Act, and the Clean Water Act. Yes, it is a temporary burden to

some when we step back and look before we leap, and no law is ever perfect. After close scrutiny, most projects will go forward under either NEPA or related laws. The denial rate is very small, and many environmental professionals have not worked on projects that were completely stopped because of the environmental review process. These laws are successful not because of the specifics of whether a certain action is good or bad, nor even because they encourage modification or mitigation for project impacts. They are successful because they encourage consideration of broader values among mission-oriented agencies and project proponents. They are about the type of lifestyle we will enjoy, the type of community we want to have, and the type of country we want to live in. The benefits of NEPA and related laws far outweigh the costs.

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