



SCENIC AMERICA

Viewpoints

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SCENIC BYWAYS UNSCATHED AS HIGHWAY BILL PASSES

Dire predictions held that Congressional billboard supporters would have their way when that body considered a bill to designate America's most important highways, the National Highway System (NHS). Certainly then, after a near-miss in November, Congress would overturn ISTEA's ban on new billboard construction on the federal-aid portions of state designated scenic byways.

But when the dust had settled on a long process leading to the passage of the NHS bill, the billboard ban was still intact.

Scenic America spearheaded efforts to maintain the ban, a critical component of conserving important scenic, natural, historic, and other resources of byways. In addition, 30 national environmental, conservation, preservation, planning, and public interest organizations joined Scenic America in signing a letter to members of the House Public Works and Transportation Committee urging retention of the billboard construction prohibition. The coalition, which included the National Wildlife Federation, the American Automobile Association, and the US Conference of Mayors, wrote that



Despite billboard industry efforts, Congress leaves scenic byways protection intact, helping to prevent billboard blight like this.

scenic byways "which enhance the most scenic and historic areas of our country deserve the protection afforded them under ISTEA."

Moreover, 11 members of that Congressional committee wrote to Rep. Nick Joe Rahall (D-WV), chairman of the Surface Transportation Subcommittee, that "there is no compelling, substantive argument for overturning this targeted ban" while there "are strong arguments for not doing so." The Charleston (WV) Gazette, Rahall's hometown newspaper, opined that eliminating the ban "could open an ugly can of worms."

But while these efforts were critical to preserving the ban, the real

secret lay in the communities and state and local organizations nationwide which fought to keep it.

A number of organizations and individuals deserve credit for their work to retain the ban: Scenic Hudson, the Ohio Roadside Council, the San Antonio Preservation Society, New Hampshire Department of Transportation Commissioner Charles O'Leary, the New Hampshire Forest Society, Houston Mayor Bob Lanier, the Pennsylvania Resources Council, and many others. Without your efforts, federal billboard controls could well have been weakened once again.

Rep. Dick Swett (D-NH) led the charge on the Congressional side, while committee chairman Norm Mineta (D-CA) and subcommittee chair Rahall must be recognized for their wisdom in preserving the billboard construction prohibition.

It now seems likely there will be no change in federal billboard controls in the near term. SA

Supreme Court Reaffirms Billboard Ban as

RESIDENTIAL SIGN BAN STRUCK DOWN

On June 13, in a unanimous decision the US Supreme Court struck down an ordinance prohibiting a homeowner from displaying a political sign on his or her own property. The decision, however, reaffirmed an earlier Supreme Court decision, *Metromedia Inc. v. San Diego*, in which the Court had determined that billboards could be prohibited.

The current case, *City of Ladue v. Gilleo*, began in December, 1990, when Margaret Gilleo, a resident of Ladue, MO, placed in the window of her home an eight inch by 11 inch sign advocating "For Peace in the

Gulf." Such a sign violated a city ordinance prohibiting residential signs, and, when the City Council denied her request for a variance, Gilleo sued on the grounds that the ordinance violated her First Amendment right to free speech.

The US District Court ruled in Gilleo's favor because the ordinance, it said, treated commercial speech more favorably than non-commercial speech. The Supreme Court, in a 9-0 decision, affirmed the District Court's ruling.

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President's Message

I hope you are taking full advantage of summer opportunities to enjoy scenic America, though I know many of you find great frustration with visual clutter as you travel across the country.

Help is on the way - for some of the nation's most scenic routes! The National Scenic Byways Program to designate routes with scenic, historic, cultural, natural, archeological and recreational significance begins October 1, 1994. This program has engendered tremendous activity at the state level to rejuvenate or create state byways programs.

To develop a profile of state level scenic byways programs, Scenic America surveyed all state departments of transportation this spring. The responses came in quickly and show tremendous progress from two years ago when we conducted a similar survey.

Thirty-two of 47 states responding indicated they have a scenic byways program. Since FHWA acknowledges that a state has a scenic byways program if it has any routes designated with the same general purpose as scenic byways, 32 is probably low. The greatest change over the past two years is the creation of 12 new state programs!

The number of routes designated by states ranges from 0 to Virginia's 82. Miles designated range from four in DC to more than 2,000 in New York and Minnesota. Interestingly, states report that in many cases their designation criteria include most of the six intrinsic resource types which FHWA will use to determine eligibility for national designation - scenic, historic, cultural, natural, archeological and recreational significance.

But designation alone won't ensure your enjoyment of scenic America. In fact, without commitments to manage scenic views and other special resources along these routes, designation alone will increase traffic on the road and might begin the

BYWAYS PROGRAM NEEDS YOU IN DRIVER'S SEAT

destruction of these resources. For National Scenic Byway nominations, FHWA plans to require a Corridor Management Plan (CMP) for each byway -- a community-based strategy to balance the conservation of the scenic byways corridor's intrinsic resources with their use and enjoyment.

We're seeing an increase also in attention to conservation of resources along these corridors. While two years ago just six states required or recommended corridor management plans for their byways, this number has now grown to 10 - AZ, CO, CA, KS, KY, LA, MI, NV, OR, GA and WY. And several other states are preparing CMPs for many routes, including NY and CT.

A key indicator of states' commitment to conservation of resources along byways is enforcement of ISTEA's requirement for no new billboard construction along Interstates and Primary routes designated as scenic byways. Most states reported they are in compliance with ISTEA's billboard ban requirements, and more than half of those responding reported that their billboard restrictions ban new billboards on state or other routes designated as scenic by-

ways, extending beyond ISTEA's basic billboard control requirement.

A critical finding of the survey is that states are very interested in having technical assistance from FHWA and others about 1) corridor management planning, 2) techniques to protect the resources of scenic byways, 3) grassroots organizing to support byways, and 4) assistance with signage issues. There is a clear need for additional research regarding the benefits of scenic byways designation to communities, businesses and regions.

Our full report of the survey results is available if you write us to request it. We'll be happy to give you the name and phone number of your department of transportation scenic byways coordinator also. You can call FHWA's Scenic Byways Clearinghouse at 1-800-4Byways to order the National Scenic Byways Advisory Committee's Report or for information on scenic byways grants just awarded to states and on the upcoming round of grants with application date November 1, 1994. Your expertise is needed by the administrators of your state's scenic byways program, so give him or her a call soon! SA

LADUE, continued

The Supreme Court's ruling focused on two main points. First, the high court held that home signs are a unique, persuasive, and convenient medium for personal expression and that other media -- flyers, handbills, speeches, etc. -- are inadequate substitutes which may not reach the intended audience, neighbors, at all. Eliminating residential signs amounts to a restriction on free speech, since other alternatives are inadequate.

Second, the court holds a special respect for "individual liberty in the home." The need for government to regulate speech from the home, the court felt, is less important than the right of individuals to speak from their homes, even when the city's desire to protect property values and preserve neighborhood appearance is a legitimate concern.

However, municipal sign controls

remain constitutionally valid. The court noted that, while signs are protected by the Free Speech Clause, they "pose distinctive problems... subject to municipalities' police powers... [they] take up space and may obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation."

In addition, residents have a financial interest in keeping clutter to a minimum. Moreover, the court expressed confidence that "more temperate measures" short of a ban on residential signs could satisfy the city's stated regulatory goals.

The decision is no surprise, since Ladue took on two constitutional icons: political speech and the right of individuals to do what they want in their own homes. But it does not hinder carefully drafted regulations of commercial signs and billboards. SA

WORKSHOP SHEDS LIGHT ON ENHANCEMENTS SET-ASIDE

The National Transportation Enhancements Workshop (NTEW), June 2-4 in Washington, D.C., was attended by 328 DOT officials, local government representatives and activists. The conference was sponsored by the Federal Highway Administration, as well as many national, state and local organizations, including Scenic America.

FHWA planned the conference to foster solutions and provide answers about sponsorship of transportation enhancement projects, applications, project eligibility and funding issues. The conference brought together attendees to hear from speakers from many organizations, including the USDOT and FHWA, STPP, Rails-to-Trails Conservancy, National Park Service and Scenic America, as well as many others.

The conference focussed on eight "Best Practice" papers. These are available through Fred Skaer (202) 366-2058 at the FHWA. Scenic America prepared four of these issue papers, which demonstrate how some states are meeting the challenges of implementing the enhancement program. The conference was designed to be very interactive; a lot of time was spent on exchanging information about what is working well or not so well in specific states. Forty-nine states were represented at the workshop.

The conference intended to promote understanding of the ten percent portion of the Surface Transportation Program set aside for transportation enhancements. There is tremendous enthusiasm for this \$3 billion dollar set aside among scenic and environmental conservationists, historic preservationists, hiking and biking advocates and others, yet problems remain.

The enthusiasm has brought implementation challenges; many new players in the transportation funding game do not know the ropes. The set aside is relatively small, and numerous inexperienced players are vying for the small pot of money. There are questions from both DOTs and project sponsors about compliance, administration, maintenance, fund matching and the construction

process. Some states have done an excellent job of selecting projects and incorporating public participation into the process. Others have lagged behind in involving the public in the program. Selecting strong projects and moving them expeditiously to completion poses challenges for sponsors and DOTs.

A lively debate at the conference centered on how aggressive DOTs should be in encouraging creative interpretation of project eligibility. Secretary Jim Lightizer, Maryland DOT, advocated a liberal approach to eligibility. Hank Dittmar, Director of the STPP, said that it is important that standards be maintained so programs can't be challenged for abuses regarding eligibility.

More challenging is moving projects to completion. A Rails-to-Trails Conservancy survey of state activity identified 2068 projects for which states have made funding awards. With 27 states responding, survey results showed that only 29 enhancements projects have been fully completed, and another 138 are currently under construction.

Moreover, according to FHWA, there is \$1.193 billion available in the first three fiscal years of ISTEA. Approximately 75% of these funds are committed to projects, but obligations total only \$288.5 million—less than 25 percent. The low obligation rate will likely change as the players become more familiar with the process for implementing these non-traditional projects and as these processes are streamlined.

Even where states are moving ahead with projects, they are not incorporating design quality into project selection. While design engineering is obviously addressed,

attention to the aesthetics of project design is essentially absent in most state's programs. John Horsley, Deputy Assistant Secretary for Government Affairs at US DOT closed out the workshop with a clarion call to empower state DOT, FHWA and other representatives involved with enhancement projects to feature design quality and aesthetics prominently in their enhancement activities.

The conference was especially enlightening to transportation professionals; nearly 70% were State DOT staff, Metropolitan Planning Organization representatives and FHWA Regional and Division staff. The other 30% were project sponsors, Transportation Enhancement Advisory Committee members, public interest organization representatives and consultants.

The FHWA has said it plans to issue new guidelines for enhancement proposals this fall. At the conference workshops, a draft was passed out showing concepts for streamlined compliance procedures which should be refined by the fall of 1994.

Transportation enhancements, according to Fred Skaer, Environmental Programs Branch Chief at FHWA, can be a trailblazer, helping to move America's transportation planning and implementation in new ways. With ISTEA's innovative planning requirements, the set-aside signifies a new way of thinking about transportation: new concentration on public input, a new recognition of the impact of transportation systems on the American landscape and on our communities, and a new effort to knit transportation into communities. SA



Preserving and enhancing scenic roads is one activity eligible for transportation enhancements funding.

NEWS AROUND THE NATION...

Pennsylvania

Blue Route Boards: Plymouth Just Says No

The zoning board of Plymouth Township, PA, recently rejected efforts by two billboard companies to circumvent an ordinance that prevents billboards from being erected on I-476, Blue Route, near Philadelphia. Last year the Pennsylvania state legislature unanimously voted the Blue Route a state scenic byway, a designation which also prohibits new billboard construction to comply with federal law. Billboard companies attempted to have their newly submitted applications classified as "amended" rather than new. This would have allowed them to argue for the scenic highway ordinance to be nonapplicable to their case, since it was enacted while their previous application was pending.

Illinois

Trees Mean Green

A study conducted in Chicago demonstrates the economic importance of trees within communities. The three year study estimated that planting 95,000 trees in two metropolitan counties would result in a net benefit of \$38 million over 30 years. While focusing on the Chicago area, the study has vast implications for every community seeking to improve environmental quality and promote energy savings. This study reinforces a number of economic impact studies, which Scenic America summarized in our technical bulletin, *Trees Make Cents*. Among the benefits included in the cost-benefit analysis are cooling effects, pollutant absorption, water quality improvement, flood control, and noise abatement.

Kentucky

There Goes the Neighborhood...

A study in Louisville, Kentucky, finds that billboard advertisers target African-Americans dis-

proportionately. The study, released by Alderman Paul Bather, concludes that nearly half of all the city's billboards are located in less than a third of the city's surface area - the region where most of the city's African-American population lives. Moreover, of approximately 140 billboards advertising cigarettes and alcohol citywide, 72 were located in this small vicinity. Public health experts and other community leaders are concerned about the ads which glamorize alcohol and tobacco use. Alderman Bather plans to use the survey results to push for tougher restrictions on cigarette and alcohol billboards. He intends to sponsor legislation to prohibit cigarette and alcohol billboards in areas with churches, schools, community centers and other places frequented by children. Scenic America is a strong proponent of such efforts, particularly in light of a significant number of studies nationwide which have found similar trends.

Colorado

Public Anger: 2

Industry Lobbying: 0

Recent billboard industry attempts to weaken sign control in Colorado Springs, CO, have run afoul of public sentiment and ultimately died when the City Council voted to retain their strong billboard control ordinance, passed in 1991. The city's ordinance caps the number of billboards, prohibits them along scenic byways, and sets priorities for billboard removal. The billboard industry attempted to push an ordinance through the City Council that would have permitted a dramatic increase in the number of billboards in the city. The proposed ordinance would have also allowed additional signs and replacements with larger signs along scenic corridors. Scenic America worked with local activists to organize the strong community support which helped convince the City Council to defeat the proposal when it came to a vote this past spring.

Texas

Austin Funds Inventory

The city of Austin, TX, prodded by local group Scenic Austin, was recently awarded \$102,000 in federal enhancements funding to undertake a comprehensive, city-wide inventory of billboards. The city provided a \$44,000 match.

Austin last undertook such an inventory in the mid-1980s. Activists believe the city has been plagued by lax enforcement of sign control laws since that time -- which has resulted in a proliferation of billboards which may be illegal. Without a permit fee system, the city has been unable to devote the money to pay for staff time and other costs incurred in enforcing its own billboard control law.

According to Girard Kinney of Scenic Austin, a local group affiliated with Scenic Texas, the city has two sign control needs: 1) enforcing their existing sign control ordinance; and 2) reforming and improving their ordinance. An ordinance's effectiveness can only be determined when the number and location of billboards in the city are known; Kinney calls the inventory "the one thing we have to have to go forward" in improving city sign controls.

The city will likely use Houston's inventory form as a starting point and fine-tune it to suit their needs. Houston's strong billboard controls have been bolstered in recent years by excellent enforcement and annual inventories.

Currently Austin billboard companies self-levy taxes -- that is, billboard companies report to the city the number and value of billboards they own. In a number of other areas, billboard companies have underpaid their taxes, costing cities and states hundreds of thousands of dollars.

Scenic Austin provided city staff with substantial support in completing the application for funding and expects to play an important role in the actual implementation of the project. SA

Affiliate Development News

Scenic Rhode Island Funds Affiliate Development Program

On April 1, with the generous support of the Scenic Rhode Island Foundation, Scenic America began a new initiative to develop or strengthen affiliates in several key states. Illinois, Kentucky, Missouri, Montana and North Carolina have been selected to receive special technical assistance and consultation to encourage affiliate development and improve affiliate effectiveness.

Several criteria were used to choose these five states from a pool of 12 applicants, including the existence of an ongoing scenic conservation organization, the presence of legislators on key congressional committees, the presence of significant visual pollution or the potential for the development of a Scenic America affiliate. "Strategic planning and board development and training will be provided on-site",

said Karl Kruse, Scenic America's director of affiliate development. Kruse also plans to work with other states that might be candidates for special assistance in year two of the program, including California, Florida, Georgia, Tennessee and Texas.

To date Kruse has conducted board and organizational effectiveness workshops for the Scenic Kentucky board of directors and a Montana citizens coalition consisting of three community-based groups along the Highway 93 corridor from Missoula north to Glacier National Park. Scenic Kentucky has been successful in promoting scenic conservation policies in Louisville and in preserving billboard controls at the state level. The Montana coalition has convinced city coun-

cils or county commissions in Missoula, Lake, and Flathead Counties to impose moratoriums on new billboard construction while volunteers educate the state legislature about the benefits of scenic conservation policies at the local level.

Says Arthur L. Williams, board president for Scenic Kentucky, "We are delighted with the news that Kentucky has been chosen as one of five states to receive priority assistance from Scenic America this year. The workshop went extremely well and I think all members of the Board of Directors came away with a heightened sense of enthusiasm and focus for our mission." SA

STATES BASH INDUSTRY INITIATIVES

Alaska and New Hampshire have little in common but reputations for outstanding scenery -- reputations which remain intact despite billboard industry attempts to expand visual pollution in those states.

Alaska is one of five states which ban the construction of new billboards and one of four which completely ban billboards. But a recent proposal, which had passed the Alaska State Legislature, would have entitled every business "of significant interest to the traveling public" to erect as many as four directional billboards as large as 96 square feet.

It would also have allowed the erection of "outdoor advertising signs" on the public right-of-way and reduced the existing penalties for violation of the state's billboard control laws.

But Independent Governor Walter J. Hickel vetoed the bill. His letter to Speaker of the House Ramona Barnes clearly outlines the importance of billboard control to the

state's economic well-being and his conviction that the proposed change would harm the state.

"It makes little sense to spoil this great public asset which our summer visitors specifically come to see," Hickel wrote. Instead, the state's tourist oriented directional signs (TODS) program "balances the need of providing valuable travel information with the desire to preserve Alaska's beautiful landscape."

In New Hampshire, billboard barons sought legislation to cut down publicly owned trees on the right-of-way to provide a 500 foot clear view of privately owned billboards. Despite heavy billboard industry lobbying, this proposal failed in the state House of Representatives by a 183-151 vote.

Environmental and public interest organizations were outraged by the proposal. According to Steven Rice, state commissioner of Re-



Montanans don't think billboards, like this one in Missoula, are "sent from above." Other states, like Kentucky, New Hampshire and Alaska, concur. Paul Whiting photo.

sources and Economic Development, "Saying that cutting trees and making billboards more visible will enhance our tourist industry is like saying that consuming more land to build strip malls is going to enhance manufacturing." He added that research shows that tourists go to New Hampshire "to get away from some of the symbols of the congestion."

State transportation commissioner Charles O'Leary threatened to defy the Legislature. "I'll not cut a tree," O'Leary said. "I stand like a rock, like an oak tree."

Scenic America worked closely with state legislator Martha Fuller Clark, with Garden Club activists and with the state's Forest Society to garner opposition to the industry's proposal. SA

SCENIC AMERICA AUGMENTS STAFF

We are pleased to welcome several new staff members to Scenic America. Jenny Ryan, a graduate of Williams College, joined our staff in April as an assistant to Development Director Ray Foote. She also assists with our membership program. Carol Truppi joined our staff in mid-June as our Scenic Programs Manager. Carol, who received a Master's Degree in Landscape Architecture from Harvard, comes to us from a position as Land Conservation Manager for Scenic Hudson in Poughkeepsie, NY. Also in mid-June, Wendy Jones became our Office Manager. Wendy, a Duke University graduate, has been working for the past two and a half years as a Development Office Assistant for Episcopal High School in Alexandria, VA.

We also welcome two new summer interns. The first is Laura McDavid from Alcoa, Tennessee, who is a candidate for a Master's Degree in Public Affairs concentrating in

Environmental Policy and Natural Resource Management at Indiana University. Also joining us is Duncan Stuart from Auburn, Alabama, a candidate for a Master's Degree in Community Planning at Auburn University. Duncan comes to us with four years experience as Assistant Director of Site Development for the Metropolitan Development Board of Birmingham, Alabama.

We were sorry to say farewell to Mary Ann Lasch, Director of Programs, and Amy Vitro, Office Manager. Mary Ann has rejoined Hellmuth, Obata, and Kassabaum, an architectural and engineering firm based in St. Louis, to move to Qatar on the Persian Gulf to work on a master plan for the country. Amy has departed to take a job as an Executive Assistant for Stevens Publishing in Washington, DC, which specializes in environmental and occupational safety and health publications.

We were also sorry to see our

spring interns leave us. Dave Palmieri will return to Vassar College this fall where he has one more year before graduating. Brad West has just graduated from San Diego State and is job hunting in San Francisco. Good luck to all four who have moved on! SA

Scenic America, a nonprofit 501(c)(3) organization, is the only national group devoted solely to preserving and enhancing the scenic character of America's communities and countryside.

Christopher J. Duerksen, Chairman
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Thanks to Ed McMahon and Kay Slaughter for analysis of Ladue v. Gilleo.

Scenic America Viewpoints is a publication of Scenic America and is available free to its members.

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