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NHS Law Maintains Billboard Controls

After a month and a half of Congressional wrangling, President Clinton signed the much-delayed and debated National Highway System (NHS) Designation Act into law. Despite tense moments in the debate, the final bill keeps intact the prohibition on new billboard construction on scenic byways and adds measures regarding highway design and transportation enhancements that will aid scenic conservationists.

The NHS is a 160,000 mile system of the nation's most heavily traveled roads. Most NHS roads are already built. The system's designation was required by the Intermodal Surface Transportation Effiiency Act (ISTEA) of 1991, which also put in place the ban on new billboard construction on state-designated scenic byways on the federal-aid Interstate and primary highway systems.

The final NHS bill included language which gives the states some latitude to remove certain blighted, heavily commercial or industrial sections from the scenic designation and to allow new billboards in those sections. However, such efforts at segmentation should be rare.

Scenic America and the byways conservation community oppose such segmentation. Byways are tools to foster conservation minded economic development; their success hinges on their ability to attract and entertain travelers. In order to do so, byways must provide travelers with a distinctive, enjoyable experience unlike that available on other roads. Anything that degrades that experience -- like new billboards, or other inappropriate development -- reduces the byway's effectiveness. Obviously, then, byways advocates should seek to beauify blighted areas of byways rather than sacrificing them altogether.

Nevertheless, the NHS language codifies a policy which the Federal Highway Administration has employed to implement the billboard construction ban in the last two years. If the FHWA and the state Departments of Transpor-



Attractive byways are still afforded protection under the National Highway System.

tation do their jobs properly, this language will not lead to new blight on America's most scenic roads.

The billboard lobby and their chief advocate in Congress, Rep. Bud Shuster (R-PA), chairman of the House Transportation and Infrastructure Committee, had pushed legislation allowing virtually unlimited billboard blight on scenic byways.

Several members of the House of Representatives, among them Rep. Clay Shaw (R-FL), protested this change; but Shuster turned a deaf ear to their protests.

However, in the House-Senate conference committee, Senators John Chafee (R-RI) and John Warner (R-VA) spearheaded efforts to keep the prohibition intact. Other Senators supportive of the current law included Daniel Patrick Moynihan (D-NY), Robert Smith (R-NH), and Max Baucus (D-MT).

The design standards provision in the NHS bill could have a significant positive impact on the way roads are designed. In many places, road projects, whether new construction, reconstruction, or rehabilitation, have resulted in the unnecessary destruction of trees and vegetation, the displacement of historic structures, and other factors which degrade scenic character.

Scenic America worked with the American Association of State Highway and Transportation Officials (AASHTO), the Surface Transportation Policy Project, and several state DOTs and the FHWA to develop language to make the standards for road design more flexible. The provision in the final NHS bill empowers the states to consider in road design the impact of projects on environmental, scenic, aesthetic, historic and other community resources, as well as access for bicycles and pedestrians. As a result, many states will enjoy new flexibility in road design and will be able to give these other resources explicit and serious consideration.

The NHS bill also includes language which streamlines the implementation of the transportation enhancements set-aside. This widely popular program's strong success has been tempered somewhat by implementation difficulties. The streamlining language expedites environmental and historic preservation reviews and encourages the states to foster public participation in the program's decision making.§

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A fond, but by no means final, farewell



Sometimes it's hard to say farewell. In mid-January, 1996, I will turn over the reins as Scenic America's president. For more than five years I've enjoyed working closely with our coalition of allied organizations, with our state-level scenic conservation groups and with individual citizens seeking to preserve and enhance the scenic beauty of this wonderful land. It has been a

real privilege to serve in this capacity and to work with legislators and public officials who care deeply about our shared scenic heritage.

Together we've fought for stronger controls to stem billboard blight and for provisions to support and sustain scenic conservation efforts. We

secured a major victory in the passage of ISTEA with its billboard ban on state scenic byways, the creation of a National Scenic Byways Program with \$80 million for implementation, nearly \$3 billion of transportation enhancement funds, and greater involvement in transportation planning for local citizens and governments. Now through the National Highway System Designa-



Sally Oldham was presented with a Stafford Award for her dedication to preserving America's scenic communities and countryside.

Scenic America is a member of Earth Share, a federation of 45 environmental organizations. Earth Share is the nation's preeminent nonprofit organization promoting charitable giving to the environmental movement through government and corporate payroll-deduction workplace campaigns, and providing environmental education to millions of Americans annually. To learn how your company can include Earth Share in its workplace giving campaigns, please call Ray Foote at Scenic America.

Earth Shares

serve Scenic America as a member of our Board of Directors.

And ahead of me is a nine month professional sabbatical during which I'll travel across the continent to renew acquaintances with old friends, to explore by bicycle and car favorite scenic byways and developing heritage areas, and to enjoy first hand the scenic beauty of America.§

> 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 Sally G. Oldham, President Ray A. Foote, Director of Development Frank Vespe, Director of Policy, Editor Wendy L. Jones, Office Manager Page Albrecht, Development Assistant Carol Truppi, Program Manager Scenic America Viewpoints is a publication of Scenic America and is available free to its members. All photos: Scenic America unless credited.

President's Message

tion Act, we've worked with transportation designers to secure major step forward in encouraging transportation design with emphasis on conserving scenic and aesthetic values.

We've developed many new technical information aids and have the design underway for a Scenic Conservation Resources Bank. We've produced videos on sign control and tree conservation, technical information bulletins on scenic byways and the many economic and community benefits of scenic conservation efforts. Currently we're completing a new Technical Bulletin on Scenic Resource Assessment.

> Thanks to the dedicated efforts of our Board of Directors and the tremendous work of our talented staff - Frank Vespe, Carol Truppi, Matt Hussmann, Ray Foote, Page Albrecht, and Wendy Jones, Scenic America today is recognized as a leader among national conservation organizations

and is built on a solid and stable foundation, with a broad range of funding sources.

Our new president is wonderfully prepared to take over at Scenic America. She is Meg Maguire, producer of our two recent videos. As Deputy Director of the Heritage Conservation and Recreation Service in the late 1970s, owner of her own business in communications and video production through the 1980s, and most recently a Senior Program Officer for federal agency and national nonprofit grantmaking for AmeriCorps, Meg is well known by her peers for more than two decades of solid achievement in recreation, conservation, communications and design fields. Meg will introduce herself more fully in our next newsletter.

Yes, sometimes it is hard to say farewell. But not this time. I'm very excited at the prospect of Meg Maguire's leadership at Scenic America. I look forward with pleasure to continuing to

Scenic America Celebrates a Busy, Successful Year

Nearly two hundred guests joined Scenic America in celebrating a commitment to preserving our scenic environment and quality of life at our annual Gala Dinner held at the National Press Club on October 30. Highlights of the program included the naming of Scenic America's Ten Most Important Scenic Byways for 1996 and the presentation of the seventh annual Stafford awards.

Scenic America's broadening agenda was clearly demonstrated by the variety of issues highlighted. Billboard and sign control remain at the heart of our efforts; but newer issues, such as fostering flexible highway design, limiting sprawl, and conserving scenic byways also play a major role. Both the Stafford Awards and the list of America's Most Important Scenic Byways (see p. 4-5) demonstrated this diversity of issues. Moreover, speeches by US Senator James Jeffords (R-VT) and author William Least Heat-Moon effectively connected policy decisions made in Washington and state capitols to the real visual quality issues that affect our lives and our communities.

Keynote speaker William Least Heat-Moon spoke about the remarkable beauty of America's waterways and provided anecdotes from his recent transcontinental river expedition. Author of <u>Blue</u> <u>Highways</u> and <u>PrairyErth</u>, Heat-Moon is one of the nation's most perceptive observers of Americans' deep connections to their communities, land, and heritage. He urged everyone present to take an active role in preserving America's scenic beauty and natural resources.

Special guest Senator James Jeffords (R-VT) voiced his support for restricting billboard proliferation and reaffirmed his commitment to preserving the scenic beauty of Vermont and of the nation. "A drive along Vermont's quiet country roads, or even its larger highways, will give a

visitor a sense of the calm, pastoral past, which in many areas of the country is slowly vanishing," he said. Jeffords recently introduced federal legislation to close the loophole in the Highway Beautification Act that permits billboard construction in unzoned commercial or industrial zones along federal-aid highways.

Leo Brennan, Executive Director of the Ford Motor Company Fund -- the principal sponsor of the Gala Dinner -- was in attendance to congratulate the Stafford award recipients and to demonstrate his company's support for Scenic America's efforts.

Outgoing president Sally Oldham received the final Stafford Award for her outstanding contributions to Scenic America. Oldham and her husband will drive across America in 1996, and she will continue her service as a member of Scenic America's Board of Directors.

Scenic America was pleased to see

that scenic conservation touches the lives of so many, from local activists to members of Congress, from federal agency representatives to noted authors. We will remember the success of the evening, and all who support us, as we continue our fight to keep this country beautiful.§

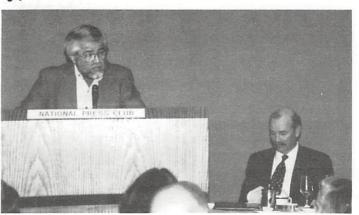
1996 Stafford Awards

Named for former U.S. Senator Robert Stafford (R-VT), the awards are presented to individuals and organizations for outstanding scenic conservation work. Awards this year went to:

- Allegheny West Authority, for coordinating development along I-279, the regional gateway from the new airport in Pittsburgh;
- Citizen's Coalition for Scenic Montana, for obtaining legislation that restricts billboard size and limits the number permitted in unzoned areas;
- Capsigns, Inc., which successfully fought for a charter amendment to ban billboards in Jacksonville, FL, and was instrumental in the removal of more than 1,000 billboards in that city;
- Ministerial Road Preservation Association, for working with local government to preserve the cultural and scenic qualities of Ministerial Road in Rhode Island from a DOT proposed roadway expansion that would have altered the road's character;
- Pennsylvania Resources Council, for their 56-year-long battle against billboards in Pennsylvania, highlighted by obtaining 18,000 signatures in a sixweek period in a successful effort to designate the "Blue Route" as a scenic byway and thus to keep it billboard free;
- Charles O'Leary, New Hampshire DOT Commissioner, who blocked an effort by the billboard industry to cut trees to allow a better view of billboards and has repeatedly defended the scenic character of the state's roads.

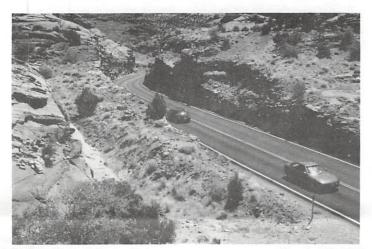


Montana activists Rose Magnuson (speaking), Joan Vetter Ehrenberg and Joanne Ruby receive their Stafford Award while Senator Jeffords looks on.



<u>Blue Highways</u> author William Least Heat-Moon recounts a 1995 trip across the U.S. in which he saw three billboards. He traveled by water.

Scenic America Announces 1996



Highway 12 Scenic Byway, Utah.

Photo by Utah DOT





At our 1996 Gala Dinner, Scenic America announced our fourth annual list of America's Most Important Scenic Byways. This list calls attention to our nation's byways, to the threats that face them, and to the choices we make to preserve them. It includes both outstanding and endangered byways.

Described as special roads that provide an enjoyable experience for the traveler, scenic byways possess significant intrinsic qualities - scenic, historic, natural, cultural, recreational and archaeological. Nominated roads were required to have significant intrinsic qualities and exemplify conservation efforts or bespeak common problems. These byways were required to have a formal designation or substantial local interest in designation. In addition, they were judged on the existence or lack of state scenic byway programs that foster resource protection.

The Most Outstanding Byways in this year's list include: San Mateo One in California, Leon County's Canopy Roads in Florida, US 40 (the National Road) in Indiana, and Oregon's Cascade Lakes Highway. Each of these demonstrates strong local and state commitment to balancing the use and conservation of the resources, as illustrated by Leon County's adoption of standards to manage, protect and reforest the majestic live oaks along their historic Canopy Roads.

Markers and a brochure for the Cascade Lakes "scenic tour route" describe the natural and recreational features along this 68-mile National Forest Scenic Byway, which passes more than 100 lakes and the Deschutes River.

Citizens in Indiana formed the National Road Association to develop a Corridor Management Plan for a 57-mile portion of the road and to seek state designation through a State Scenic Byways Program that prohibits the construction of new billboards along any scenic byway.

Sensitive design and planning standards make San Mateo One stand out. Architectural review and the requirement for local governments to regulate land use and intensity of development help preserve the byway, and the Public Utilities commission limits the installation of above ground utility lines along scenic corridors.

Six endangered byways made the 1996 list. Uncontrolled growth or sprawl, road construction projects and sign proliferation contribute to degradation along these byways. Route 9 in Delaware, Florida's Buccaneer Trail, Route 22 in Illinois, US 41 in Michigan, Pennsylvania's Delaware River Scenic Drive and Highway 12 in Utah all reflect a potential loss of resources. Without recognition and management the intrinsic qualities that make these byways special may be lost - a too common problem around the nation.

Delaware's lack of a scenic byways program hinders efforts by the Delaware Coastal Heritage Greenway to identify and preserve Route 9's scenic, cultural and natural qualities. A 73 mile



U.S. 40, Indiana

Photo by Fred Holycross

Most Important Scenic Byways

pastoral byway winding through the Greenway Corridor that follows the coastline is the focus of the Greenway effort to unify, protect and interpret the resources.

Along the Barrier islands of Florida's northeast coast between Fernandina and St. Augustine, the Buccaneer Trail (Route A1A) traces the 16th century route of pirates and pioneers. Designated a scenic highway, the road serves Fernandina Beach, a 300-year-old town listed in the National Register of Historic Places. But without measures to control outdoor advertising in Nassau and St John's Counties, billboard blight will destroy the Buccaneer Trail's scenic heritage. The road will then become another statistic like those in a 1995 Florida Department of Environmental Protection study which found that the loss of scenic vistas and community character contributed to a decline in tourism and its associated economic benefits.

Poor maintenance and the lack of a statewide conservationminded scenic byways program jeopardize the Delaware River Scenic Drive, a 60-mile drive that is the main route through Pennsylvania's Delaware and Lehigh Navigational Canal National Heritage Corridor. The road, which was not originally designed to handle the vehicular traffic that exists today, parallels the 1832 Canal; but without critical repairs the historic canal walls will continue to crumble causing unsafe roadway conditions.

Jim Naegle from the Utah Department of Transportation asks, 'When was the last time you saw a billboard message that changed your destination or reason for travel?" Despite the tremendous increase in tourist visitation to see Utah's scenery, a Utah Highway Commission resolution allows billboard construction along scenic byways within incorporated cities and towns unless the incorporated area has scenic value. Communities near Highway 12 Scenic Byway, a 120-mile two-lane road that twists and climbs through Utah's canyon lands through Dixie National Forest, have reaped economic benefits from tourism. The 1.5 million visitors to Bryce Canyon National Park take Highway 12, as do visitors to Zion and Grand Canyon National Park, Lake Powell and Las Vegas. Byway stakeholders have applied for federal funds to complete a Corridor Management Plan to protect the resources. However, the state should also enact legislation to ban billboards along these scenic byways.

Billboard blight also threatens US 41 in Michigan. The currently designated portion of the road is protected by easements held by Michigan DOT on 150 feet of land on either side of the road. But a proposed extension of the byway, coupled with a policy prohibiting byway designation in commercial and industrial zones, could degrade the new byway sections.

Scenic America has produced a 10-page brochure on the Most Important Scenic Byways, filled with photographs. Please call or write us to receive a free copy of this brochure.§





San Mateo One, California

Photo by Caltrans





Cascade Lakes Highway, Oregon

Photo by Bend Chamber of Commerce

Billboard Industry Tree-Cutting Efforts Turned Back

Georgia

Garden Club Wins Big in Supreme Court

The Garden Club of Georgia scored a major victory early in November when the Georgia Supreme Court reversed a lower court ruling that allowed billboard companies to cut trees on public land to improve billboard visibility. Writing for the majority, Justice Fletcher stated that "the Georgia Constitution prohibits the General Assembly from granting any donation or gratuity.... By implementing regulations allowing private companies to remove public property that blocks their signs, the state is giving an illegal gratuity."

The court reasoned that the state's tree-trimming regulations favored private individuals, and that the information that the traveling public derives from the outdoor advertising is insufficient to qualify as a substantial benefit because travelers could gain the same information from other sources. The court ruled that Georgia law "favors both highway safety and the natural beauty of trees over an unobstructed view of private billboard advertising."

This ruling invalidates regulations promulgated by the Georgia Department of Transportation that permit tree-trimming.

New York

New York DOT Withdraws Tree-Trimming Order

Aides to Governor George Pataki moved quickly to void an order by DOT Commissioner John Daly, which would have reversed long-standing DOT policy prohibiting sign companies from cutting trees on public land to improve the visibility of privately-held billboards.

Even before the new procedures were made public, the Governor's office was alerted to the memorandum by Environmental Advocates, an Albany-based not-forprofit organization. Aides to Governor Pataki's office moved quickly to squelch the Commissioner's directive. (As a State Assemblyman, Pataki had opposed industry efforts to allow tree-cutting in the right-ofway.) The issue of "vegetation control" has simmered in the New York legislature for years, with billboard owners pitted against environmentalists. By issuing a memo directing staff to reverse existing policy, Commissioner Daly angered many legislators, who took issue with Daly's claim that under new guidelines "there should be no adverse effect on the environment due to the strict controls and permit conditions in place to



guarantee the maintenance and appearance of our ROW."

"Every New Yorker who cares about the environment ought to be outraged," Assemblyman Sam Hoyt (D-Buffalo) said before the regulation was withdrawn.

Earlier this year, the New York legislature considered a provision introduced by Hoyt which would have placed an annual fee on billboards to capitalize a fund for urban reforestation efforts. As part of the measure, billboard companies would have been allowed limited tree cutting. The companies rejected this approach, flatly objecting to a fee on billboards.

Kentucky

Scenic Kentucky to Become Newest Affiliate

At its fall board meeting, the Board of Directors of Scenic America unanimously voted to approve the application of Scenic Kentucky to become an Affiliate of Scenic America.

Founded in 1989, Scenic Kentucky has been instrumental in protecting Kentucky's scenic environment. Over the years, it has taken an active role to block pro-billboard legislation at the state and national level. It helped spearhead the Governor's Task Force on Signage and Tourism, which led to an innovative "Fifth Logo" pilot program. (In addition to the four standard TODS logos, a fifth logo for tourist attractions is being tested in Kentucky.) Scenic Kentucky has championed Scenic Byway designation in Kentucky and has provided assistance to individual nominations. It has helped individual communities draft local sign ordinances and has worked to sustain the Kentucky Transportation Cabinet's policy not to allow tree-trimming on state ROW.

Scenic Kentucky's 1996 work plan includes new initiatives to monitor the status and removal of illegal billboards; securing the permanent addition of the Fifth Logo to the federal highway system and forming a State Advisory Committee.

Scenic America is proud to welcome Scenic Kentucky as an Affiliate.§



The cutting of trees on the public right-of-way to improve visibility of billboards, as seen in this photo taken outside Pittsburgh, PA, has been thwarted in Georgia and New York. Photo by Bill Lawrence

Save Our Land, Save Our Towns Makes the Case for State Plans

Real communities, says Thomas Hylton, are places where at least some people live near where they work, and where all children can walk to school. Real communities have a mixture of people of all ages and incomes. Real communities are built to a human scale, with a full range of housing types, placed close enough together so residents can walk and enjoy informal meetings and greetings on the street.

Pulitzer Prize-winning journalist Thomas Hylton looks at how ten states, from Vermont to Oregon, are implementing a new concept in government comprehensive state plans - to provide a better future for their citizens.

A comprehensive plan is a means of focusing on the future, encouraging people to think about what kind of society they really want, and writing those ideals down as goals. In adopting plans, most states have reached remarkably similar conclusions about what they really need. They need to build real communities, not suburban sprawl.

New Technical Bulletins Look at Byway Issues

Two new technical bulletins from Scenic America will give local citizens and organizations important information on scenic byways.

Economic and Community Benefits of Scenic Byways focuses on the economic impacts of designating and protecting scenic roads. It includes sections on how scenic byways foster tourism, boost local economies, and improve quality of life. With a number of case examples, this bulletin demonstrates clearly the real-world benefits of protecting our scenic roads.

Evaluating Scenic Resources explains "visual assessment techniques" for scenic byways. These are tested methods to identify key views and vistas both of and from the road. These techniques become an important tool to protect scenic byways because they offer a system for preservationists to identify and rank the resources that need to be preserved. This bulletin was prepared for us by the firm of Jones and Jones, Architects and Landscape Architects.

Both these bulletins should sell quickly, so reserve your copies today!§



Traditional community centers should be preserved and strengthened according to Thomas Hylton's new book Save Our Land, Save Our Towns.

Planning for real communities takes into consideration issues of visual quality and community identity. This book is a valuable tool for all concerned with landuse, community planning and resultant quality of life. Just published in 1995, it is packed with full-color photographs of the results of both good planning and a lack of planning. A must for Scenic Americans!§

Save Our Land, Save Our Towns: A Plan for Penn	sylvania
by Thomas Hylton \$24.95	
Technical Bulletins: Technical bulletins are \$5.00 each, and	y 3 for \$10.00, or any
6 for \$18.00. Please send me	
Trees Make Cents	
On the Value of Open Spaces	
The Value of Nature and Scenery	
Wetlands NOT Wastelands	
Aesthetics and Commercial Districts	
Does Preservation Pay?	
New! Economic and Community Benefits of Scenic Byways	
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Scenic America Works to Combat Broad "Takings" Agenda

The right to own property is fundamental to our democratic system and way of life. It's also a right which, in its most extreme manifestations, can come into conflict with the public well-being and the property rights of others. Environmental, health, and other laws and regulations seek to balance these important values. But a growing "property rights" movement seeks to end this balancing act.

S.605, the Omnibus Property Rights Act, sponsored by Sen. Orrin Hatch (R-UT), would radically redefine the terms of debate and make federal regulations costly and burdensome to taxpayers.

The bill expands a long-established right -- the right of a property owner to be compensated when government "takes" his property -- to the point that a property owner could demand compensation if government regulations reduced the value of any portion of his property by a certain percentage, irrespective of how that regulation might affect the value of the property as a whole.

S. 605 would govern how any federal law or regulation applies to all kinds of property. Detractors note that it would require significant new red tape, as well as being extremely expensive.

While for many years government's "taking" of property had been limited to physical occupation, in recent years new environmental, health, and other regulations have also impacted property values. For example, in some cases wetlands or endangered species regulations limit the use of private property in order to protect water quality or species habitat.

Affected property owners can seek compensation through the court system, which examines the merits of each such claim individually, based on magnitude of economic loss, goals and methods of the legislation, and other factors.

S. 605 would eliminate this case by case examination, replacing it with a strict formula: if a federal law or regulation causes any portion of a property to decline in value by 33% or more, then the responsible agency would be required to compensate the owner for that loss. Additionally, the bill would significantly increase red-tape and bureaucracy to examine the effects of such regulations.

Clearly, we all accrue benefits from,

for example, the cleaner air and water that government regulations have fostered. Moreover, the actions prohibited by these regulations would in many cases have damaged others' property, if undertaken. Filled wetlands, for example, may cause flooding on nearby properties.

Not every environmental law works perfectly all the time. No laws do. But if property owners are unduly burdened or if compensation is too difficult to obtain, the right response is to address the difficulties themselves: to refine regulations to make them less burdensome and to make the compensation process easier.

S. 605 and similar proposals advanced in this Congress attempt to replace the difficult but more balanced case-by-case approach to determining "takings." As part of a larger goal of reducing all types of regulations, these bills would make protecting endangered species, water, health, and so on almost impossible. S. 605 is not a reasoned, "conservative" approach to government; it is a blanket proposal making regulations more expensive and difficult, thus weakening essential environmental protection.§

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