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The Changing Scenery of the Apostle Islands

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The Apostle Islands were really scenic. And then they weren’t. Now they are scenic again, and it is the responsibility of the National Park Service (NPS) to keep them that way.

The NPS has been responsible for the Apostle Islands since 1970, when Congress established the Apostle Islands National Lakeshore.¹ The NPS is thus obliged to prepare a management plan that will guide the agency in preserving the islands. The NPS published the latest such plan in 2011, which addresses the new challenges presented by kayakers who don’t know what they’re doing, the problems of expiring life estates, and the consequences of climate change.²

But the plan says little about the scenic values that played a major role in persuading Congress to establish the national lakeshore in 1970. Gaylord Nelson, the Wisconsin Senator who championed the establishment of the national lakeshore (and who was the father of the first Earth Day, also in 1970), described the Apostle Islands as “uninhabited formations of rugged beauty.”³ The enabling legislation for the national lakeshore lists the

* John N. Matthews Professor, Notre Dame Law School. I am especially grateful to Bob Krumenaker, the Superintendent of the Apostle Islands National Lakeshore, for teaching me about the Apostle Islands. I presented a version of this essay at the annual meeting of the American Society for Environmental History in March 2012. Rob Fischman, Nicole Garnett, Bruce Huber, and Patricia Limerick provided helpful comments on an earlier draft of this essay. I am also indebted to Warren Rees for his assistance.


conservation of the scenic value of the islands as one of the national lakeshore’s purposes. Moreover, the Organic Act that governs all national parks cites scenery first in its list of the values of national parks.

As I explain in this essay, the omission of scenic management from the new management plan for the national lakeshore does not suggest that the plan is flawed. Scenic management is an increasingly common element of plans for managing federal lands. But the establishment of the national lakeshore itself achieves most of the scenic purposes for protecting the Apostle Islands. The more difficult question is how to reconcile scenic values, cultural resources, and wilderness preservation, and the plan’s struggle to accommodate each interest demonstrates that existing statutes fail to provide sufficient legal protection to scenic values even when such values provided the impetus for preserving an area. The priority to manage scenic values will also become more difficult in a constantly changing ecosystem, which will require greater attention to scenic values in future management plans.

I.

The Apostle Islands

The 22 Apostle Islands are located in Lake Superior off of the Bayfield Peninsula in northwestern Wisconsin. They were long inhabited by the


4 16 U.S.C. § 460W.

5 See 16 U.S.C. § 1 (explaining that the purpose of national parks is “to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations”).

6 The Apostle Islands National Lakeshore encompasses 69,372 acres, which includes 27,323 acres of submerged lands in Lake Superior. The islands range in size from 3-acre
Ojibwe (previously known as Chippewa) people, who regard the area as sacred. The first Europeans arrived in the area during sixteenth to trap for furs. During the second half of the nineteenth century and the beginning of the twentieth century, the Apostle Islands were used for sandstone mining, fishing, and timber production. The islands were a favorite tourist destination as early as the 1870s.7

In 1930, Congress asked the NPS to consider establishing a national park in the Apostle Islands.8 In doing so, the Senate reported that “[f]or outstanding beauty of its particular type, the Apostle Islands group is unsurpassed.”9 The Park Service duly dispatched an inspector to evaluate whether the Apostle Islands possessed the national significance that would justify the establishment of a national park. Instead of seeing a scenic landscape, the inspector was repulsed by the recent clearcutting of the trees throughout the islands. He reported that “[w]hat must have been once a far more striking and characteristic landscape of dark coniferous original forest growth has been obliterated by the axe followed by fire. . . . The hand of man has mercilessly and in a measure irrevocably destroyed their virgin beauty . . .

Gull Island to 10,054-acre Stockton Island. See generally AINL Management Plan, supra note 2, at 6.

7 The early history of the Apostle Islands is recounted in James W. Feldman, A Storied Wilderness: Rewilding the Apostle Islands (2011); Harold C. Jordahl Jr. with Annie L. Booth, Environmental Politics and the Creation of a Dream: Establishing the Apostle Islands National Lakeshore (2011); see also AINL Management Plan, supra note 2, at 171 (recounting the history of logging in the islands); Jane C. Busch, People and Places: A Human History of the Apostle Islands: Historic Resource Study of Apostle Islands National Lakeshore 327 (2008) (noting that the Apostle Islands were known for their picturesque beauty” as early as the nineteenth century, when tourism flourished”).

8 See Act of May 9, 1930, Pub. L. No. 186, 46 Stat. 264-65 (directing the Secretary of the Interior “to investigate and report to Congress as to the desirability and practicability of establishing a national park to be known as the Apostle Islands National Park”).

He predicted that it “would probably take 50 to 100 years” for the trees to regrow and “restore the vigorous charm and beauty of a mature primeval forest.”

The national park proposal having failed, the islands remained the property of private owners and the state. Most of the timber harvesting, mining, and other extractive activities ended. And gradually, the forests grew back much more quickly than the NPS inspector had predicted in 1930. They were not the same forests as before the logging, as maple, fir, and cedar trees replaced the pine, hemlock, and birch that had been cut down. But the new trees were just as scenic, and they helped to hide the other scars of the other extractive enterprises that had occurred there.

The return of the scenery prompted interest in preserving it before it disappeared again. Wisconsin’s Senator Gaylord Nelson introduced the first national lakeshore proposal in 1965. The proposed bill stated that the Apostle Islands “possess high values to the Nation as examples of unspoiled areas of great natural beauty.” The congressional hearings and discussions of the bill in the ensuring years emphasized the scenic qualities of the Apostle Islands. “Most importantly,” explained David Obey, the local member of Congress, “this proposal preserves the natural beauty which surrounds the Apostle Islands.”

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11 Kelsey, supra note 10, at 7. A 1936 NPS report was more positive, see G.N. Lamb, Report of Investigation of Proposed National Parks: Apostle Islands National Park (Jan. 1936), at 4, but by then the congressional momentum for establishing a national park had waned.

12 See AINL Management Plan, supra note 2, at 171 (describing the changed composition of the forests).


14 Id.

After five years of debate, Congress established the Apostle Islands National Lakeshore in 1970. The stated purpose of the national lakeshore is “to conserve and develop for the benefit, inspiration, education, recreational use, and enjoyment of the public certain significant islands and shoreline of the United States and their related geographic, scenic, and scientific values.”¹⁶ The enabling statute further directed the Park Service to manage the area with those values in mind.¹⁷ The NPS acquired the island from their private owners once the national lakeshore was officially authorized. Most recently, Congress designated eighty percent of the land in the Apostle Islands as the Gaylord Nelson Wilderness in December 2004.¹⁸

II.

Managing the Scenery of the Apostle Islands

The national lakeshore’s enabling legislation requires the preparation of a management plan.¹⁹ The purpose of such a plan “is to ensure that [the area]
has a clearly defined direction for resource preservation and visitor use to best achieve the National Park Service’s mandate to preserve resources unimpaired for the enjoyment of future generations.”

AINL published its first management plan in 1989, and it published a new plan in 2011. The 1989 plan had become “outdated” because of “major changes in visitor use patterns (in particular, a substantial growth in kayaking in the area), new development needs, and the changes resulting from the designation of wilderness.” The NPS considered a number of alternative regimes in its environmental impact statement accompanying the 2011 plan, ultimately favoring a “focus on providing opportunities for more people to have an island experience.”

The NPS proposes to achieve that goal by restoring two lighthouses, providing transportation to three islands that are currently unserved by commercial operators, rehabilitating the cultural landscape, and building a new visitor center.

But the plan says little about preserving the scenic features of the islands. To be sure, the plan acknowledges the scenic values of the islands. The conservation and protection of scenic features is one of the national lakeshore’s purposes. One of the reasons that the islands are significant is because they contain a “stunningly beautiful array of coastal landforms.”

The plan describes the scenic features of the islands, including “great vistas including views of and from the lighthouses, undeveloped shorelines, long-
distance views across the lake, views of the horizon, views of sailboats, [and] views of wildlife.” 27 The plan also notes that the public places the highest value on scenic beauty. 28

Toward that end, the national lakeshore’s enabling legislation empowers the NPS to “provide for the public enjoyment and understanding of the unique natural, historical, scientific, and archeological features of the Apostle Islands through the establishment of such trails, observation points, exhibits, and services as he may deem desirable.” 29 Several provisions of the management plan seek to provide views of the scenic features. 30 At the same time, the plan tries to avoid the construction of viewpoints that themselves interfere with the scenery. 31

Gaylord Nelson’s original national lakeshore bill called for “a scenic shoreline drive on the Bayfield Peninsula.” 32 The purpose of the scenic drive was to enable more people to actually see the local scenery. 33 But national

27 Id. at 29.
28 See id. at 331.
29 16 U.S.C. § 460W-6(c).
30 See AINL Management Plan, supra note 2, at 144 (stating that “[w]here appropriate, facilities such as boardwalks and fences would be used to route people away from sensitive natural and cultural resources while still permitting access to important viewpoints”); id at 155 (providing that “[f]acilities would be designed, sited, and constructed to avoid or minimize visual intrusion into the natural environment or landscape” and “[v]egetative screening would be provided, where appropriate”).
31 See id. at 260 (testimony of NPS Director George B. Hartzog, Jr.) (asserting that “it is an important recreation asset in the area to let people in there to see that scenery”); Apostle Islands National Lakeshore: Hearings Before the Subcomm. on Parks & Recreation of the Senate Interior & Insular Affairs Comm., 90th Cong., 1st Sess. 11 (1967) [hereinafter 1967 Senate Hearing] (testimony of Sen. Nelson) (noting that “[a] scenic road would wind through the area with turnoff points from which to view the islands offshore.
park proponents objected that “the proposed scenic shoreline drive could become the familiar monstrosity” and contribute to over-development. The road was never built because it would have been located on tribal land that was eventually omitted from the national lakeshore.

Besides providing views of scenery, the more important responsibility of the NPS is to ensure that the scenery is preserved. The preservation of that scenic beauty requires an understanding of what qualifies as scenic, how that scenery can be enjoyed, and how it can be impaired. The plan does not specifically address these issues; nor did the enabling legislation that established the national seashore. But the 1970 act and the 2011 plan combine to provide a roadmap for achieving the scenic goals of the national lakeshore. They do so by resolving the scenic status of wilderness, geological features, plant and animal communities, and human structures.

A. Geological features

The sea caves and other geological features that inspire most of the praise for the scenery of the Apostle Islands are also the aspects of the islands that are least likely to be impaired. It would be really difficult wreck the geology, and no one has any incentive to try. The real danger to the scenic value of the landscape is that undesirable structures will be built that would interfere with the view, as discussed below.

B. Plants and wildlife

The legislative history of the enabling act asserts that “the living things found in the area” add to its beauty. Those living things had changed dramatically between the time that the Apostle Islands were first considered for national park status in 1930 and when Congress established the national}

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34 1967 Senate Hearing, supra note 33, at 63 (statement of Anthony Wayne Smith, President and General Counsel, National Parks Ass’n).

lakeshore forty years later. Gaylord Nelson claimed that the islands “look like they did 500 years ago,” 36 but he was wrong about the natural life of the islands. The pine trees that had been logged by the early decades of the twentieth century were replaced by other trees. Those trees, in turn, attracted new kinds of wildlife. The appearance of the Apostle Islands changed accordingly.

The enabling act directs the NPS to preserve the ecosystem as it existed at that time. 37 There is an irony in that command, for it seeks to lock in an ecosystem that had developed after nearly all of the islands had been clear cut earlier in the twentieth century. The insistence on a 1970 baseline prevents the NPS from restoring the area to what it looked like before then. It also seems to require the NPS to resist changes in the natural ecosystems.

This presents a management challenge because the natural ecology of the Apostle Islands has continued to change since the area became a national lakeshore. Increasing deer populations, invasive species, and the impacts of recreational visitors all combine to alter the original landscape. 38 The 2011 management plan acknowledges that “[m]any ecosystems that include wildernesses suffer anthropogenic disturbances for which managers lack the knowledge, the legal authority, or the financial resources to correct permanently at the present time.” 39 Scenic preservation, in short, demands active management to ensure that the desired scenic values remain.

37 See 16 U.S.C. § 460W-6 (requiring the “preservation of the unique flora and fauna and the physiographic and geologic conditions now prevailing on the Apostle Islands within the lakeshore”).
39 AINL Management Plan, supra note 2, at 98.
The plan notes that new invasive species arrive in the national lakeshore every year. It reports that wetlands and sandscapes – two of the more scenically attractive ecosystems – are at high risk of invasive species. Additionally, the plan asserts that “[c]limate change is expected to result in many changes to the Lake Superior region and Apostle Islands National Lakeshore in particular.” The biological changes include “rapidly increasing range of nonnative species like gypsy moths; increases in the frequency, size, and intensity of forest fires; reductions or disappearance of species at the edges of their ranges (which includes almost all of the unique species on the Great Lakes islands). Moreover, “climate change will likely favor some species over others, and will likely lead to unprecedented ecological conditions that, if managers do not intervene, may appear ‘untrammeled’ but will hardly be ‘natural.’ Managers will be faced with the dilemma of artificially aiding some species to try to preserve them in their native habitat, or else accept their loss as the conditions they require disappear from the park.” The challenge of choosing between what “appears” natural and what was natural at the time that the national lakeshore was established is a problem for scientific study, but it is even more a problem that triggers contested values of the kind of landscape that we want to see.

C. Human structures

The most controversial sights on the Apostle Islands are those associated with the human presence there. Some evidence of human activities on the Apostle Islands is scenic; other is not. Congress prevented many of the most objectionable structures simply by establishing the national lakeshore and thereby authorizing the federal acquisition of the islands, but the NPS retains an important role in discouraging unwanted evidence of human activities while preserving scenic evidence of the human history on the islands.

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40 Id. at 174.
41 Id. at 51.
42 Id.
43 Id. at 80-81.
Unsightly new residential developments along the shore were the biggest threat to the scenic character of the islands when Congress created the national lakeshore. As Milwaukee’s Representative Henry Reuss explained, “This legislation will save the Apostle Island area before the honky-tonks and the bulldozers take over.” Others insisted that private landownership was critical to preserving the scenery, just as the scenic qualities of the islands had returned after forty years of private and state ownership. But the proponents of federal ownership prevailed. The enabling act directed the NPS to acquire the land throughout the islands, which immediately precluded any of the honky-tonks that worried Representative Reuss. Nothing will be built along the shore or anywhere else in the Apostle Islands unless the NPS approves, and so far the NPS has not been inclined to authorize any new structures on the islands.

The 2011 management plan rejected two alternatives that could have interfered with the scenic quality of the islands, though it did so for reasons other than those scenic qualities. It rejected the construction of public lodging on Rocky Island because it would be contrary to the purpose of the national

44 1969 House Hearing, supra note 3, at 3 (statement of Rep. Reuss). See also S. Rep. No. 276, 91st Cong., 1st Sess. 10 (1969) (reporting that “[t]he picturesque arches and pillars and other striking rock formations created by the waves have given the Apostle Islands wide fame”); 1969 House Hearing, supra note 3, at 17 (worrying that the islands and adjacent mainland are “now threatened by the indiscriminate designs of land speculators and developers”); 1967 Senate Hearing, supra note 33, at 149 (testimony of William H. Ruth of the Wisconsin Wildlife Fed’s) (asserting that “destruction of the natural assets through unplanned development can lead to economic, as well as scenic, blight”); see also 1970 House Hearing Pt. II, supra note 15, at 261 (testimony of NPS Director George B. Hartzog, Jr.) (worrying that “the junk that is developed in the foreground getting there detracts from the resources preserved”).

45 See 1970 House Hearing Pt. II, supra, at 324 (testimony of Thomas R. Powell) (insisting that “[t]he beautiful scenery, the area’s greatest attribute, can be best maintained for the enjoyment of all if the lands remain in their present ownership”); Lamb, supra note 11, at 4 (reporting that “[t]he chief value of the islands for park purposes lies in the scenic formation of their shore lines as viewed from pleasure boats…. Therefore, the acquisition of the islands as public property is hardly necessary to enhance the value of a boat trip among them.”).

46 See 16 U.S.C. § 460W-2
lakeshore to keep the islands “wild, with minimal facilities.” The plan did not consider whether such lodging would have compromised the scenic character of Rocky Island. The plan also rejected the construction of a bridge across Sand River for several reasons, including cost and unspecified “environmental impacts,” again without noting that the visual impact of such a bridge could affect the scenic views.

The establishment of the national lakeshore did not guarantee that the view from the islands would remain scenic. Threats to scenic values could arise from outside the national lakeshore’s boundaries. That has happened at a number of other national park, such as the construction of large solar energy facilities within the viewshed of Mojave National Preserve and another example. It has not happened, though, at the Apostle Islands. The plan notes the importance of clean air to enjoy scenic views, an issue that has plagued numerous other national parks, but the air of the Apostle Islands remains pretty clear.

The fear of ugly structures is accompanied by a passion for scenic structures. Lighthouses are the most obvious example. The national lakeshore has “the largest and finest single collection of lighthouses in the country.” Those six lighthouses were built during the second half of the nineteenth century, and they are all on the National Register of Historic Places today. The management plan aspires to restore or rehabilitate two of the lighthouses, choosing from Sand, Outer, and Michigan Island. But the

47 AINL Management Plan, supra note 2, at 150.
48 Id.
49 See generally John Copeland Nagle, See the Mojave!, 89 Or. L. Rev. 1357, 1378-1403 (2011) (describing the aesthetic concerns about siting solar energy farms in the Mojave Desert).
50 See AINL Management Plan, supra note 2, at 28
51 See generally NPCA report; John Copeland Nagle, The Scenic Value of Clean Air.
52 F. Ross Holland, Jr., Great American Lighthouses 256 (1989) (quoted in AINL Management Plan, supra note 2, at 188).
53 AINL Management Plan, supra note 2, at 115.
preservation of the lighthouses requires more funding. The plan states the challenge:

The issue facing the National Park Service is to determine which level of preservation is appropriate for each of the light stations. Preserving, maintaining, interpreting, and studying the light stations requires a substantial allocation of the park’s budget. The logistical difficulties of undertaking historic preservation activities within the park add considerably to costs. The park does not have, and is not likely to receive, sufficient funds to do regular maintenance and other preservation treatments on all of the light stations and associated structures. The park also does not have enough staff to interpret and maintain all of the light stations.\(^{54}\)

The longtime local member of Congress, David Obey, used his position as chair of the House Appropriations Committee for an earmark to restore the Raspberry Island lighthouse.\(^{55}\) The other five lighthouses remain in need of restoration, or at least stabilization to prevent them from deteriorating. The NPS actually already enjoys the authority to allow a private developer to restore the lighthouses and then rent them to tourists, but the remote location of the islands makes such a strategy uneconomical for any developer.

Besides the lighthouses, there are eleven other structures in the Apostle Islands that are listed in the National Register of Historic Places. The islands are filled with reminders of the homesteads, sandstone quarrying, logging, fishing, and tourism that existed before the establishment of the national lakeshore. These structures, though they are often dilapidated, have now become part of the general scenic attractiveness of the islands, in the same way that the evidence of centuries of human activities in England now help

\(^{54}\) See id. at 47.

qualify such places as “areas of outstanding natural beauty.” The plan explains that the NPS “is committed to carrying out (at a minimum) preservation and stabilization of its significant historic structures and cultural landscape features, with the intent to carry out more extensive rehabilitation and restoration activities as funding allows and as appropriate guidance documentation (e.g., historic structure reports and cultural landscape reports) is completed. In particular, the plan proposes to preserve and stabilize the Manitou fish camp on Manitou Island.

But the Wilderness Act could get in the way. The Wilderness Act provides that “wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.” The Act also provides that wilderness is a place where “the imprint of man’s work substantially unnoticeable.” Of course, our imprint was quite noticeable when Congress designated the eighty percent of the Apostle Islands as wilderness in 2004. The management plan identifies the protection and preservation of “the area’s natural and cultural resources and values” as one of the primary goals for managing the wilderness. For example, the plan

56 See Natural England, Guidance for Assessing Landscapes for Designation as National Park or Area of Outstanding Natural Beauty in England 3 (Nov. 25, 2009) (specifying cultural resources are a part of “natural beauty”); see generally John Copeland Nagle, Britain’s AONBs (draft manuscript on file with author) (analyzing the criteria for identifying AONBs).

57 AINL Management Plan, supra note 2, at 187.

58 Id. at iv. The Manitou fish camp operated from the 1890s to the 1940s, is listed in the National Register of Historic Places, and “is the only unaltered commercial fishing camp in the Apostle Islands.” Id. at 194.

59 16 U.S.C. § 1133(b). See also AINL Management Plan, supra note 2, at 75 (noting the importance of scenic values for wilderness areas).

60 16 U.S.C. § 1131(c)(1).

61 AINL Management Plan, supra note 2, at 75. See also id. at 84 (“The Gaylord Nelson Wilderness includes many cultural resources, including archeological sites, historic structures, ethnographic resources, and cultural landscapes. Cultural resources are included under the Wilderness Act as part of wilderness and historic values to be protected. In addition, laws intended to preserve the nation’s cultural heritage, including the National Historic Preservation Act, Archeological Resources Protection Act, and American Indian Religious Freedom Act, (among others), all fully apply in wilderness. Any
authorizes the management of “encroaching vegetation growing directly on or within former logging camp ruins and quarries in the wilderness area to protect them from accelerated decay.”

In doing so, the plan embraces the reconciliation of wilderness and culture advocated by environmental historian William Cronon. Writing about the Apostle Islands, Cronon objected to “a stark – and artificial – boundary between nature and culture,” which implied that “the two should be quite separate, and that wilderness in particular should be devoid of anything suggesting an ongoing human presence.” Cronon accused the NPS of being “the principal vandals of historic structures . . . removing farms, fishing camps, and cottages at Apostle Islands . . . in an effort to persuade visitors that the land remains untrammeled.” The result, proclaims Cronon, is a “carefully contrived illusion.” Or as Cronon’s student James Feldman explains, “[t]reating the islands as a wilderness, and only as a wilderness, has made it harder to see and understand the resource production activities of the past—the fishing, farming, and logging that shaped today’s wild landscapes.” Perhaps that it was Gaylord Nelson meant when remarked as he introduced that first national lakeshore bill in 1965 that the islands “would be preserved as virtual wilderness.”

Regardless of the persuasiveness of this argument, several recent court decisions have limited the ability of the NPS to manage wilderness areas to preserve historic structures. The NPS wanted to provide access to the old adverse impacts on cultural resources in the Gaylord Nelson Wilderness will be avoided if at all possible.”

62 Id. at 85.


64 Id. at 40.

65 Id.


mansions that are located on wilderness lands within the Cumberland Island National Seashore, but the Eleventh Circuit held that the preservation of historic structures does not further the goals of the Wilderness Act.68 Likewise, the NPS wanted to use a helicopter to reconstruct two historic shelters in Olympic National Park, but a federal district court held that “to reconstruct the shelters and place the replicas on the sites of the original shelters by means of a helicopter is in direct contradiction of the mandate to preserve the wilderness character of the Olympic Wilderness.”69 These decisions call into question the ability of the NPS to actively preserve the scenic value of historic structures in the Apostle Islands. The national lakeshore avoided that problem by drawing the wilderness boundaries to exclude the lighthouses, even though the Wilderness Society preferred to place the lighthouses within the wilderness area in order to maximize the wilderness acreage. But the NPS’s ability to restore the other cultural resources that are located in the wilderness area remains uncertain.

III.

Managing scenery generally

Scenic values played a central role in the congressional decision to establish the Apostle Islands National Lakeshore in 1970. The Apostle Islands are just as scenic today as they were when Congress established the national lakeshore 42 years ago. The NPS, however, has done little to actively manage the scenic quality of the islands, and scenic issues occupy a very modest part

68 See Wilderness Watch v. Mainella, 375 F.3d 1085 (11th Cir. 2004).
69 See Olympic Park Assocs. v. Mainella, 2005 U.S. Dist. LEXIS 44230, *25 (W.D. Wash. 2005). See also Wilderness Watch v. United States Forest Serv., 2012 U.S. Dist. LEXIS 42924, *43 (W.D. Wash. 2012) (ordering the Forest Service to remove a newly renovated fire lookout from the Glacier Peak Wilderness Area because “encountering such a structure in the wilderness area . . . is harmful generally to the interests of those seeking to experience the primeval character, solitude, and natural conditions associated with wilderness”).
of the new management plan. How is it, then, that the scenery has flourished without the NPS doing much about it?

The absence of purposeful scenic management is especially odd not just because of the primary importance of scenery for national parks, but also because other federal land management agencies that are less devoted to scenic values are nonetheless more likely to engage in scenic management. Consider the Chequamegon-Nicolet National Forests, located just south of the Apostle Islands. The Forest Service is charged with managing national forests for multiple uses, of which scenery is one among many. Yet the management plan for the Chequamegon-Nicolet National Forests contains a far more extensive discussion of scenic issues than anything that appears in the management for the national lakeshore. The plan divides the national forest into high, medium, and low “scenic integrity objective” areas and specifies the appropriate management activities for each. For example, in high scenic integrity areas, “[t]emporary openings adjacent to high-speed highways (55 miles per hour speed limits) should be no more than 130 feet long (along the road), should be separated by a minimum distance of 500 feet, and should occupy no more than 400 feet of each mile of road.” The plan calls for new utility lines to be buried, or if that is not possible, they should only be placed on national forests as a last resort. And the scenic management section of the plan addresses opening created through vegetation management, which side of trees to be marked before they are cut, and the appearance of riparian areas. Similarly, while the environmental impact statement (EIS) that accompanied the national lakeshore plan did not consider scenic qualities in its discussion of the possible management alternatives, many of the Forest Service’s EISs contain lengthy discussions of the impact of a project on “visual resources.”

70 See Multiple-Use Sustained-Yield Act, 16 U.S.C. 528-531.


72 Id. at 2-30.

73 See id. at 2-31.
The detailed scenic management provisions in national forest plans do not prove that the Forest Service cares more about scenery than the NPS. Rather, national forest plans contain more careful scenic management provisions because the Forest Service is authorized to approve activities that can have a far greater negative impact on scenic values than anything that is allowed in a national park. Oil and gas production, the construction of wind energy turbine and solar energy farms, and other large-scale industrial activities are not allowed in a national park. So most of the thanks for the preservation of the scenic quality of the Apostle Islands are owed to Congress, not the NPS. The national lakeshore designation alone prevents the construction of subdivisions and other structures that are blamed for ruining scenic landscapes. The only management that is necessary is to keep the scenic views unobscured and to prevent the emergency of unsightly natural or unnatural objects.

The 2011 management plan for the national lakeshore contains few provisions designed to protect scenic value, but few such provisions are needed. The enabling act allows for the construction of some visitor facilities that could compromise the scenic appeal of the islands, but the plan rightly rejects any such facilities because there is no public demand for them anyway. The original vision of the national lakeshore as a remote, primitive, wild place continues to guide the public expectation for the Apostle Islands, and the NPS widely heeded that vision in its plan.

The harder question for the NPS is how to preserve something that is constantly changing. The composition of plant and animal life continues to change in the Apostle Islands, and climate change could produce even more dramatic changes in what lives on the islands and in the waters around them. Left unchecked, vegetation can obscure the views of lighthouses, hide old fishing camps, and add or subtract to the scenic qualities of the landforms themselves.

The hardest legal question for the NPS is how to account for cultural resources that add meaning to the Apostle Islands, and that have become part of the scenic appeal of the islands, but which are out-of-place from the
perspective of the Wilderness Act. The Wilderness Act may limit the ability of the Park Service to manage some of the reminders of the human presence on the islands that we now regard as contributing to their scenic appeal.

IV. Conclusion

The Apostle Islands show how scenery changes. There have been three historical periods related to the scenic values of the Apostle Islands. During the 1920s and 1930s, the islands were regarded as having lost their scenic value because of the extensive human activities there, especially clear cutting of trees. Then, during the 1960s, the Apostle Islands were regarded as so scenic that they deserved the protection of the National Park Service. Now, the scenic values of the islands are taken for granted, and the Park Service’s management focuses on other ecosystem services and values.

The Apostle Islands offer just one example of how the historical importance of scenic values has given way to a broader understanding of the importance of all types of ecosystems. Other examples could explain the evolution of ideas about what qualifies as “scenic,” moving from such iconic mountain landscapes as Yosemite and Yellowstone to include swamps, deserts, and grasslands that were largely ignored during the first decades of American conservation efforts. For each type of landscape, the historical evolution in our understanding of scenery suggests that policies that now often emphasize ecosystem management must still seek to achieve the scenic values that inspired the preservation of special landscapes and that continue to inspire visitors today.