Scale & Context: An Evaluation of Regional and Transboundary Heritage Conservation Models

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Abstract
This thesis examines several trends in heritage management in which management of very large scale areas is undertaken. The goal is to evaluate regional scale or transboundary planning and preservation management models, especially those where management of a single entity is governed by multiple sets of rules, such as multiple states or nations. This thesis will also examine the ways that these large-scale, developed areas are lacking or excelling at preventing and managing development, especially in response to the needs of places to grow their economies. This thesis will also evaluate the larger question of when the scale of a heritage area becomes so large that it loses the notion of outstanding heritage, and places lose their ability to develop and grow. It will then evaluate how a system can be constructed to look beyond the jewel box and respects heritage and culture at a radically broad scale while planning for regional growth.

In order to evaluate how a transboundary management plan could benefit the Cetinje Royal Capital and Skadar Lake, this thesis has been divided into four chapters, the Legal Structures for Transboundary Sites; The Historic Case of the Adirondack Park; the role of NGOs in promoting regional and transboundary preservation; and Mitigation of negative externalities through the environmental impact assessment (EIA) process.

Keywords
transboundary heritage, cetinje, adirondack park, skadar lake, regional planning

Disciplines
Historic Preservation and Conservation

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An Evaluation of Regional and Transboundary Heritage Conservation Models

Alexandra Liana Church

A THESIS

In

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Partial Fulfillment of the Requirement of the Degree of

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2012

__________________________________________________________

Advisor and Program Chair

Randall F. Mason

Associate Professor
To my family, for their love and support.

To Daniel, for his tolerance. Te sakam.

To Joe, Rhiannon, Charlie, & Gabe, for allowing me to eat all their food and take over the dining room.
ACKNOWLEDGEMENTS

I owe a huge debt of gratitude to my advisor, Randy Mason, for bringing me thrice to Southeast Europe, and teaching me how to look around once I got there. This thesis was conceived on one of those trips, on a long hike from Kotor to Cetinje along the long, abandoned footpath. As I sought shelter from a passing summer thunderstorm in an abandoned farmhouse somewhere near the summit of Mount Lovćen, with Irene Berkowitz, Nels Youngborg, and Marshall Tidwell, I finally understood the interaction between geomorphology, culture, and politics that makes heritage management so interesting. I also must thank the sweet ex-pat couple with the red car who graciously drove us down the mountain when our thunderstorm decided not to pass.

I also must thank Katri Lisitzin, Sandra Kapetanović, and Ilija Lalošević in Montenegro, Lazar Sumanov and Dejana Arsova in Macedonia, and Gustavo Aaroz, Stephanie Toothman, and Christina Cameron for their insights, inspiration, and time.
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ACRONYMS

APA: Adirondack Park Agency
EC: European Commission
EIA/EIS: Environmental Impact Assessment/Statement
EU: European Union
FAO: The Food and Agriculture Organization of the United Nations
FYR Macedonia (FYROM): Former Yugoslav Republic of Macedonia
ICCROM: International Centre for the Study of the Preservation and Restoration of Cultural Property
ICOMOS: International Council on Monuments and Sites
IUCN: International Union for Conservation of Nature and Natural Resources
MoU: Memorandum of Understanding
NEPA: National Environmental Policy Act (United States)
NGO: Non Governmental Organization
NHA: National Heritage Area
NPS: United States National Park Service
SEE: Southeast Europe
SEQR: State Environmental Quality Review Act
UN: The United Nations
UNDP: United Nations Development Programme
UNECE: United Nations Economic Commission for Europe
UNEP: United Nations Environment Programme
UNESCO: United Nations Educational, Scientific, and Cultural Organization
WH: UNESCO World Heritage
WWF: World Wildlife Fund
CHAPTER 1: INTRODUCTION

In 2010, the Permanent Delegation of Montenegro to UNESCO submitted a nomination to the World Heritage list for the Cetinje Historic Core. This property contains 6.6% of the land mass in Montenegro. Together, with two other World Heritage sites in Montenegro, the proposal would place 10% of Montenegro’s landmass on the World Heritage list. This enormous scale of protected areas is but one example that highlights emerging problems for the protection of natural and cultural heritage sites. Large heritage sites can no longer be managed as singular monuments, with management plans aimed at protecting a singular asset. They instead become what Krister Olsson has termed culturesheds, where various smaller assets within a large area work together to form a network that is both dependant on and far more valuable than each of its component assets, but for which there are few examples of holistic management techniques. In Montenegro the existing and proposed sites together contain nearly a quarter of the country’s population, and so heritage management requires planning for both protection and development. Culturesheds often do not fit neatly in traditional political boundaries, covering and including multiple municipalities, states, and even nations. Ultimately, when large parts of a country or region are protected heritage, heritage becomes part of every decision relating to development and land use. The management challenge for large scale and regional heritage areas is to define at which scale heritage can be realistically managed by which jurisdictional actor, and what the context for significance in heritage should be.

1 “Cetinje Historic Core - UNESCO World Heritage Centre.”  
2 Olsson, “Citizen Input in Urban Heritage Management and Planning.”
In 2011, UNESCO added 25 new properties to its list of World Heritage under the categories of natural, cultural, and mixed heritage, bringing the list to a total of 936 properties. The World Heritage list, including the Pyramids at Giza and the Athenian Acropolis, is heritage deemed by the committee to have universal heritage value. The historic monuments of technologically advanced early western cultures form the basis of the early inscribed properties. But the 2011 additions included 875,000 acres of French farmland and its 720,000 acre buffer. At 2492 square miles, the Causses and the Cévennes, Mediterranean agro-pastoral Cultural Landscape is roughly the same size as the state of Delaware and includes 239 municipal communes.\textsuperscript{3} Also inscribed in 2011 was a group of 18 coffee growing villages in Columbia, along with their 500,000 acre buffer (a total of 1351 square miles); the Ningaloo Coast of Australia (2722 square miles); the Saloum Delta in coastal Senegal (868 square miles); and the Ancient Villages of Northern Syria, which is a serial site of 40 villages. Several of these sites are natural sites and were already national parks or wildlife preserves, and therefore have very few people living in

\textsuperscript{3} A commune is a French municipality or village. It is the lowest level of administration in France.
them, and none of the Ancient Villages of Northern Syria are populated. But the Causses and the Cevennes, and the Columbian villages are working landscapes whose inscription includes the people who traditionally grow the crops and are therefore dependant on development, markets, and outside trade to continue the action that was thought crucial enough to preserve for world heritage.

Each of the previous examples is wholly contained by one nation, and therefore is under the jurisdiction of that nation. But two other additions to the World Heritage list, the Prehistoric Pile dwellings around the Alps; and Primeval Beech Forests of the Carpathians / Ancient Beech Forests of Germany, span multiple nations and therefore must be managed within multiple sets of national and local law systems. The Prehistoric Pile dwellings around the Alps is a serial site of 111 properties in 6 nations that span the Alpine region. The Ancient Beech Forests of Germany was expanded to include the Primeval Beech Forests of the Carpathians, with 112 new square miles in Slovakia and Ukraine. Both sites fall partially in the European Union, further expanding the multiplicity of jurisdictional laws. As of 2011 there are 27 UNESCO World Heritage sites that are considered transboundary properties, illustrated in Figure 2, below.4

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4 Transboundary are sites, projects, and studies that are not wholly in one jurisdiction. It has been chosen for use in this thesis based on its standard usage by the United Nations. Its synonym, multi-jurisdictional is perhaps clearer, but as it is not in standard usage by the UN, the author's preferences are disregarded.
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Source: “UNESCO World Heritage Centre - World Heritage List.”
This thesis began as an investigation into management techniques that could be applied to the tentative UNESCO Cetinje Historic Core site. The examination has been refocused on the deeper question of regional, transboundary, and large-scale heritage management practices, but the Cetinje proposal still remains a clear case of why more examples of these management techniques are needed. The proposal for the site begins with a strong nomination for the historic core of the Old Royal Capital of Cetinje. The several blocks of 19th century embassies, museums, and the seat of the Montenegrin Orthodox Church, including basilica and monastery do appear to easily meet the first category of World Heritage, cultural monuments. A 2009 management plan for this Historic Core defines the site as just this urban area, with a buffer area, which the plan notes is in the process of being defined. However, by the time the site is added to the tentative World Heritage list in 2010, the site had been expanded to include the 910 km² municipality, the Old Royal Capital Cetinje, which includes Lovćen National Park and a third of Skadar Lake National Park. Neither the boundaries of the site nor the buffer area are explicit in the document, however the site description states that the “values of Cetinje Historic Core in synergy with the broader context of Cetinje plain and Mount Lovćen, with the Mausoleum at its summit, can be defined as a specific cultural landscape.” Therefore it is assumed that the site includes all of the City of Cetinje, the adjoining National Parks, and the Cetinje plain, which the description explains “can be divided into three larger, spatially independent areas: 'Katunska površ or 'Katunski krš, Mount Lovćen range and its continental piedmont area and Skadar Lake basin's Western ridge.”

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5 Cetinje Historic Core Management Plan, 8.
6 “Cetinje Historic Core - UNESCO World Heritage Centre.”
7 Ibid.
This expansive site would include or border all of the fastest developing parts of Montenegro, including the capital city of Podgorica, and the coastal tourist cities. The region includes two existing national (natural) parks, and borders the cultural UNESCO site of the Kotor Bay. Additionally, Skadar Lake, which is at least partly included in the site, is a 200 square mile cryptodepression that spans the Montenegrin and Albanian border. The lake itself offers an interesting case study in transboundary management. It is a Montenegrin National Park, an Albanian Managed Nature Reserve, and is designated as internationally important wetland under the 1971 Ramsar Convention. Its shores are home to scores of small towns, such as Rijeka Crnojevica in Figure 4, and the Albanian City of Shkoder, with a population of 200,000 people. Its upriver watershed includes the two largest cities in Montenegro, Podgorica and Nikšić.
The management of Cetinje is an interesting case study because of the trouble has defining its borders, as evidence by the unclear World Heritage proposal, and as a mixed cultural and natural heritage area that is both large scale and includes management issues in two countries. The region also faces fast-paced and under-regulated development. The following investigation is not necessarily a solution for how to manage Cetinje, but is intended to introduce a discussion on how and why regional heritage planning is necessary and complicated.
Heritage protection at very large scales is not unheard of, nor is transboundary heritage. The first large preserve, now Yellowstone National Park, is over 3400 square miles, while the largest in the world, Northeast Greenland National Park, is 375,000 square miles. The Waterton Glacier International Peace Park was created in 1932 with the joining of two National Parks; one in the United States and one in Canada. But all are undeveloped and follow the IUCN guidelines for minimal human habitation.

There is now a shift towards larger heritage areas (and associated buffer zones) that unlike wildlife reserves or wilderness preserves include people and must plan for considerable development. In the case of both newly inscribed World Heritage agricultural landscapes, this may include the planning and preservation of agricultural techniques and traditions that were they to become outdated, render the preservation of the land nearly impossible. The burden shifts to the preservationists to not only preserve the land, but also the way of life that supports entire regions that may span multiple administrative boundaries.

This thesis examines several trends in heritage management in which management of very large scale areas is undertaken. The goal is to evaluate regional scale or transboundary planning and preservation management models, especially those where management of a single entity is governed by multiple sets of rules, such as multiple states or nations. This thesis will also examine the ways that these large-scale, developed areas are lacking or excelling at preventing and managing development, especially in response to the needs of places to grow their economies. This thesis will also evaluate the larger question of when the scale of a heritage area becomes so large that it loses the notion of outstanding heritage, and places lose their ability to develop and

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8 The first transboundary site was probably Morokulien, which spans the border of Sweden and Norway and was established in 1910, but it is simply a “peace monument” on an international border.
9 The IUCN guidelines are explained, in detail, later in this thesis.
grow. This thesis will then evaluate how a system can be constructed to look beyond the jewel box and respects heritage and culture at a radically broad scale while planning for regional growth.

The analysis of management techniques has been divided into four chapters, the Legal Structures for Transboundary Sites; The Historic Case of the Adirondack Park; the role of NGOs in promoting regional and transboundary preservation; and Mitigation of negative externalities through the environmental impact assessment (EIA) process. Chapter 3: The Legal Structures of Transboundary Sites focuses on planning policies for watersheds and natural habitats to understand if these protection and management techniques could be easily adopted for managing culturesheds. Chapter 4: The Adirondack Park evaluates how the Adirondack Park Agency came to manage the Park nearly 100 years after its creation, and whether its varying levels of jurisdictional authority over public and private lands is a legacy of its time and place or whether it can be applied to other places. Chapter 5: The Role of NGOs examines the role that civil society and non-governmental professionals play in managing heritage in order to evaluate if their regional cooperation can be substituted for regional policies or laws. Chapter 6 evaluates whether a comprehensive EIA process with strong inclusion of heritage can take the place of regional heritage management by allowing developments to be comprehensively evaluated by their benefit to society.

This thesis is specifically focused on techniques in use in North America and in Europe both because they are exceptional, and because they are the most applicable to the management of heritage for Cetinje.
CHAPTER 2: LITERATURE REVIEW & PRECEDENTS

2.1 The History of Planning at the Regional Scale

There are critical differences and nuances between Land Use and Development Planning and Cultural Heritage Management, but examining the history and scholarship of one is often useful in answering deficits in the other. The history of Land Use and Development Planning has several important periods where planning at the regional scale was examined and often abandoned, for various reasons.

The idea of planning for regions has its start in the work of the Scottish Town Planner, Patrick Geddes, at the turn of the twentieth century. Geddes, who began his studies as a sociologist, pioneered an approach to studying cities and mass urbanization by understanding cities in a context of their region. “He believed that the best method for studying the city was to begin, on the one hand, with ‘its geographical location’, and on the other, with the ‘evolution of its historical and cultural traditions,’” both ideas which require the researcher to look beyond current borders, and understand how the regional place came to exist. Cities exist in a regional ecosystem, and so planning for urban ills also requires a study of the entire surrounding environmental context, including the social, cultural, AND natural environment. Geddes advocated for a regional survey process to reunite the idea of the town and the country, in an area called “city regions.” He presupposed that as the metropolis grew in wealth, power, and size during industrialization, it came at the expense of its small towns. As the towns grew more impoverished, it pushed more people into the large cities. “His notion of regional planning, mediated between the ‘abstractions of universalist planning and the parochialism of the locally concrete, and also

13 Ibid., 487.
between town and country.”¹⁴ Important to cultural heritage, Geddes saw these regions as having distinct “regional outlooks” and “regional culture, whereby a new vision must arise where people see their life in all its ‘ever widening relations, its expanding possibilities’ where the personal and the regional, the national and the human are reconciled in a common purpose for a better life.”¹⁵

Geddes was extremely influential to Louis Mumford in the United States, who, along with Clarence Stein, Benton MacKaye, Lewis Mumford, Alexander Bing, and Henry Wright created a “small but extremely influential group of intellectuals called the Regional Plan Association of America (RPAA).”¹⁶ Their role was to turn planning away from the urban city, and to consider the regional scale, especially towards a “more humane system of small cities,” which became the early American suburbs.¹⁷ In their infamous film, The City (1939), the city becomes a metaphor for the collective societal ills, and through planning, especially of Greenbelt, MD, a more harmonious and human scale place can be created.¹⁸ The scale of the region, therefore includes the machine scaled industrial city, and its habitable countryside. Concurrently, Thomas Adams, and the Regional Plan Association were drafting the first Plan for the New York Region, which among other outcomes, planned for the extension of road networks and development far beyond the metropolitan borders, into the region (read Countryside). While the plan was attacked by Mumford and others at the time, today, nearly all of the road networks and park systems have been built, and development extends just about to the extents laid out by Adams.¹⁹

The idea of creating a regional planning authority in the United States has been considered at various times, but most of the attempts have had little actual influence because of local political

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¹⁴ Ibid.
¹⁵ Ibid.
¹⁷ Ibid.
¹⁸ Steiner and Van Dyke, The City.
controls. The Federal Highway Administration, in advocating for a need to plan regionally, (at least for highways) explained three large scale attempts in the history of the United States to explain the national in regions.\textsuperscript{20} The earliest of these attempts took place at the national level, when the 1850 US Census attempted to “divide the United States into administrative ‘regions’ … in which educational statistics were presented for five geographical divisions. In the 1960s, Rexford Tugwell, …proposed splitting the country into twelve regions for federal administrative purposes, and in 1981 Joel Garreau argued that North America was actually ‘nine nations’, with differing economic, political, and cultural emphases, and that thinking in terms of these nine regions would lead to better public-policy choice.”\textsuperscript{21} The latest incarnation has been the Regional Plan Association’s 10 megaregion divisions, but none of these efforts has created substantial regional governmental power.

Far more successful have been a series of large scale development initiatives, often led by the federal government, that use the federal purse to force cooperation. Early pre-professional planning programs sought to divide and develop the huge expanse of lands, especially west of the Mississippi River. The projects were unconcerned with state or territorial borders, and instead sought a greater purpose of connecting the entire Nation under the auspices of Manifest Density. These included large scale infrastructure projects, such as the Baltimore and Ohio Railroad, transcontinental railroad (and Land Grant Act), the Erie Canal, and the US Reclamation Act, which each connected the interior to the coasts or created linkages to supply necessary goods and services. Coupled with the 1862 Homestead Act and Morrill Act, lands from the Public Domain were offered to settlers and states to create homesteads, new towns, and new institutions. This mass development push was met with an East Coast urban population newly interested in health and

\textsuperscript{20} “Section III. A Historical and Contemporary Perspective - Megaregions - Planning - FHWA.”
\textsuperscript{21} Ibid.
spiritual concerns (such as Miasma and Romanticism), which pushed for protections for these
unspoiled lands before they were entirely developed.

In 1891, the General Land Law Revision Act gave the President the power to proclaim forest
preserves. The next year, the Sierra Club was founded by John Muir “to explore, enjoy, and
render accessible the mountain regions of the Pacific Coast; to publish authentic information
concerning them,” and “to enlist the support and cooperation of the people and government in
preserving the forests and other natural features of the Sierra Nevada.”22 In 1906, the Antiquities
Act (officially An Act for the Preservation of American Antiquities) was signed by President
Roosevelt to institute federal protection for preserving archaeological and Native American sites.
It allowed for the designation of National Monuments areas already in the public domain that
contained “historic landmarks, historic and prehistoric structures, and other objects of historic or
scientific interest that are situated upon the lands owned or controlled by the Government of the
United States.”23 Ten years later, in 1916, The National Park Service (NPS) established under
President Woodrow Wilson as part of the Department of the Interior. The NPS was given the
responsibility to “promote and regulate the use of the Federal areas known as national parks,
monuments, and reservations hereinafter specified... which purpose 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.”24 Both of these acts took future land management power away from states, and
placed it instead in a National structure in order to protect heritage (and land) important to the
National interest.

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22 “Origins and Early Outings - History - Sierra Club.”
23 National Monuments; Reservation of Lands; Relinquishment of Private Claims.
24 Service Created; Director; Other Employees.
However, concurrently, development interests were being codified into local governance, with the passage of the first comprehensive zoning resolution adopted by New York City’s Board of Estimates in 1916, and the 1928 Standard City Planning Enabling Act issued by U.S. Department of Commerce. The first Regional Plan of New York, in 1922, and the Inland Waterway Commission of 1907, both tried to create frameworks to plan through or around municipal boundaries (for the New York City metropolitan area, and watersheds, respectively), but both could act only as guiding frameworks within local municipal planning and zoning regulations.

During the Great Depression and the New Deal, the unprecedented economic depression led to several unprecedented public work projects, such as the Tennessee Valley Authority, the Grand Coulee Dam, and the Hoover Dam, which again put power into regional authorities. But this move towards authorities was short lived in most cases, and after the Second World War, the federal government asserted regional and national planning policies by creating funding streams with extremely limited scopes to, for example, build the interstate highway system, and fund suburban mortgages.

Several regional planning groups did prevail, including the Regional Plan Association of New York and the Appalachian Regional Planning Act and Commission. In 1956 the Council of Government movement (COGS) began in the Detroit area and today there are Regional Councils in every state except Kansas, whose role is to “function as a planning organization, technical assistance provider and “visionary” to its member local governments. As such, they are accountable to local units of government and effective partners for state and federal governments.”

For the most part, however, regional and national planning control is still tied to funding. Metropolitan Planning Organizations (MPOs) are required by the 1973 Highway Act and the

25 “National Association of Regional Councils - What Is a Regional Council?"
Urban Mass Transit Act, for areas of more than 50,000 people to receive federal transportation dollars based on their long range transportation plans. Some MPOs engage in significant planning and coordination, while others are only involved within the scope required by the 1973 rules. An exemplary case would be the Tahoe Regional Planning Commission, which was created in 1969 by an act of the United States to act as the land use planning agent in the entire Lake Tahoe Basin, in both California and Nevada. The Tahoe Regional Planning Commission is in charge of all of the land use and planning for the region, and is essentially a preservation planning entity, where the natural heritage is the main object of preservation and strong land use controls work to protect the Lake and the environment.

Additionally, the National Historic Preservation Act, Water Resources Management Act, Public Work and Economic Development Act, Endangered Species Act, Clean Air Act, Coastal Zone Management Act, Clean Water Act, Superfund Bill, and Brownfields Act, among others, provide some federal oversight and funding to protect and preserve the environment, but have most of their power in the ability to restrict funds (or monetarily penalize) non-compliers rather than criminally penalize.
In the early 2000’s, the Regional Plan Association of New York, New Jersey and Connecticut (RPA), through its National Committee for America 2050, began a national planning program called America 2050. It is branded as “a national initiative to meet the infrastructure, economic development and environmental challenges of the nation as we prepare to add about 130 million additional Americans by the year 2050.” Its research devised ten emerging megaregions, and now advocates for their planning as entire economic megaregions, as shown in Figure 4. Their definition of a megaregion explains that as cities and metropolitan areas continue to grow, their borders begin to dissolve and blend into one another, “creating a new scale of geography.”

It is crucial to plan at this scale because the “interlocking economic systems, shared natural resources and ecosystems, and common transportation systems link these population centers together. As continued population growth and low density settlement patterns place increasing pressure on

26 “Megaregions - America 2050.”
these systems, there is greater impetus to coordinate policy at this expanded scale.\textsuperscript{27} The regional management at the RPA includes heritage management, and newly published reports such as, "Landscapes: Improving Conservation Practice in the Northeast Megaregion," make recommendations for "improving conservation efforts that stretch across city and state boundaries."\textsuperscript{28}

The European regional planning model is quite different. Europe-wide policies began only after World War Two, some as a direct result of armistice deals, and the policies follow a general tenant that economic prosperity in any and all parts of Europe will benefit the rest of Europe. Therefore, planning and development initiatives crossed national boundaries. In conjunction with America 2050, the University of Pennsylvania City Planning Program, Megaregion studio in 2004 researched the history of regional planning in Europe in order to create a set of best practices for their application in American megaregions. The report concluded that "over the past thirty years, the EU and EC [EU predecessor group European Council] have funded a number of initiatives aimed at promoting more balanced development within Europe."\textsuperscript{29} Policies such as the adoption of the European Spatial Development Perspective (ESDP) aim to provide a European-wide planning policy framework within which national legislation can work. Although the document is non-binding, it begins to address the administration of planning responsibility within the EU to work towards a Europe-wide spatial development plan. In explaining the ESDP's importance, the Megaregion studio wrote that, "although neither the European Union nor the U.S. federal government can regulate land use, they both make policies and fund projects with far-reaching

\textsuperscript{27} Ibid.
\textsuperscript{28} "Northeast Landscapes."
\textsuperscript{29} Barnett et al., Planning for America in a Global Economy 2004-2050, 62.
consequences. For this reason, the European experience can be a useful reference for any large-scale planning effort in the United States.”

2.2 Why we preserve

Preservation begins with a fundamentally different problem than planning. The protection of natural sites and ecosystems is rooted in a legacy of protected hunting grounds and landscaped estates, and ultimately in the systems of national parks and protected natural areas. But beginning in the post-enlightenment period, humans found it necessary to create frameworks to preserve and protect expression of collective human identity. These protections where usually at the local and national level, but eventually, there become enough will to create and manage a list of heritage that was critical to protect for the benefit of the entire world. The idea is that a universal quality exists in some places buildings, and works of art that all humans can understand as significant to the development of our common culture. In the eighty years since the first charter on the preservation of world heritage was written in Athens by an international group which became the International Council of Monuments and Sites (ICOMOS), it is still unclear what precisely this idea is that some places are of “outstanding universal value” and should be protected for their benefit to all humankind. The international community continues to try to understand this concept of universal significance and to determine what a site to be protected is, and where to draw the limit on preservation, restoration, and even documentation for the future.

The value given to heritage has historically been based on its materiality. According to Gustavo Araoz, President of ICOMOS, there was formerly an assumption that all the heritage value rested on the physical—that the historic and aesthetic value of something equaled its heritage value. Today the scope has shifted towards the rise of the stakeholders, and the value of heritage is

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30 Ibid.
31 ICOMOS, Athens Charter.
defined by the general population. The direction of heritage has moved into new categories that
did not exist before, especially; Intangible (versus tangible), Natural (versus cultural), and
Moveable (versus immovable). Araoz explains that these new categories reflect new values that
were not always considered in heritage management, “especially economic and social value,
where heritage serves as an engine for economic and social development.”32 In the past, heritage
places had mostly physical value, but much of the values “now reside in intangible concepts such as
Chinatown, San Francisco, where the architecture was once thought to be the most important, but
the people are now understood as the most culturally significant, that is by continuously occupying
the place.”33 There has been a shift in paradigm in heritage management in the past few years,
with heritage no longer simply a political tool for promoting national identity. World Heritage
sites such as UNESCO Historic Urban Landscapes34 are expected to be engines for development
and must be dynamic, since change is one of the major basic traits of a city and therefore the
value and design of cities relies on change. Araoz concludes this creates a paradox for
conservation. “But how can you conserve and change at the same time? It represents a
fundamental paradox and an oxymoron.”35 Apart from an urban context and applied to
landscapes, the central paradox in heritage management at any scale larger than the monument is
how to plan for change. Calame and Sechler add that the field of preservation has understood its
primary purpose, “to be preservation for its own sake. The complete restoration of a site or
monument to a former – perceived or actual - state of grandeur has been the profession’s rallying

32 Araoz, interview.
33 Ibid.
34 “The historic urban landscape, building on the 1976 “UNESCO Recommendation concerning the
Safeguarding and Contemporary Role of Historic Areas”, refers to ensembles of any group of buildings,
structures and open spaces, in their natural and ecological context, including archaeological and
paleontological sites, constituting human settlements in an urban environment over a relevant period of time,
the cohesion and value of which are recognized from the archaeological, architectural, prehistoric, historic,
scientific, aesthetic, socio-cultural or ecological point of view. This landscape has shaped modern society and
has great value for our understanding of how we live today” (UNESCO, “Declaration on the Conservation of
Historic Urban Landscapes.”)
35 Araoz, interview.
cry and, though few practitioners could enumerate them with any clarity or consistency, the social advantages stemming from this work are assumed to be self-evident.”36 But preservation is now at a point when it can no longer simply preserve heritage in a static place. It must plan for change and prove that preservation can serve a greater cultural and social purpose.

The concept of World Heritage came out of the middle of the twentieth century when there were substantial global threats that caused the international community to fear that the world would lose significant heritage. Russell Train (US Environmental Protection Agency administrator and the founding Chairman of World Wildlife Fund) called for community to come together to promote cooperation and assistance to save humanity’s sites. It was “an acceptance of defeat. We can’t save the family farm, lets save the family jewels.” In the first years, countries rushed to put their main places on the list. “Now countries are nominating sites in the hope they will bring tourism—it is seen as an engine for tourism.” The role of protection falls to the United Nations Educational, Scientific and Cultural Organization, UNESCO, which “seeks to encourage the identification, protection and preservation of cultural and natural heritage around the world considered to be of outstanding value to humanity.”37 UNESCO’s Cultural Programme’s “main line of action” is specifically “protecting and conserving immovable, cultural and natural properties, in particular through the effective implementation of the World Heritage Convention.”38 It works towards effective implementation by strengthening the functional efficiency of its governing bodies (national states); working to more effectively protect properties “against new global challenges and threats;” building capacity and training for sustainable development; and working with a network of partners to develop and expand “World Heritage education, communication and

37 “UNESCO World Heritage Centre - World Heritage.”
38 “Culture Programme: Major Programme 2010-2011 35 C/5 | United Nations Educational, Scientific and Cultural Organization.”
knowledge management tools.” Its role, therefore is as a mirror to the larger role of the United Nations, to promote world peace through facilitating international cooperation, specifically for UNESCO with the goal to cooperate to protect cultural and natural heritage.

Rather than UNESCO defining its role to set parameters for how all heritage throughout the world is managed and conserved, it has placed a specific value on certain heritage and uses these listings (and threat of delisting) as a way to manage heritage. In differentiating the role of ICOMOS from the World Heritage list, ICOMOS President Gustavo Araoz said that “ICOMOS cares about good conservation—not what gets inscribed—the best conservation—all heritage—not World Heritage. In some cases World Heritage means additional money, but what does World Heritage do? Moves you to the top of the food chain, that’s what it does.”

2.3 How we preserve

As the scope of heritage expands, the way in which heritage is preserved and managed needs to change and expand. Some of this may be through new bodies or laws, but there is already considerable existing framework and organizations in place that manage cultural and natural heritage.

Since the creation of Yellowstone Park, but especially in the last thirty years, the number and range of protected areas throughout the world has grown to over 30,000, covering one tenth of the Earth’s surface, and comprising a total area larger than China and India combined. Much of these protected areas are natural areas, where biodiversity and habitat protection are considered the crucial resources to be protected. Human development which may interfere with natural protections, is pushed to the margins, or removed from the area completely. Heritage has

39 Ibid.
40 Araoz, interview.
traditionally been managed in a similar way. The object is preserved above all other concerns. For example, Independence Hall in Philadelphia, was carefully cleared of all its surrounding and adjoining buildings. Today it sits alone (and exalted!) on a grassy mall. This method of isolation and exclusion has been strongly questioned, but much of the preserved heritage in the world remain as places surrounded by fences, that value protection over all else because many of the other models for protection are too young or too untested to apply to critical heritage areas.

In order to isolate and exclude, the most common means of protection, is to list a property, either locally, nationally, or on the UNESCO World Heritage list. Although, technically, all cultural heritage is protected from armed conflict under the 1954 Hague Convention, the listing of a property is the best way to ensure that it is considered “cultural property” and therefore protected. The various national and sub-national listing offer varying degrees of protection for these sites. In the United States, properties considered National Parks are transferred to ownership of the Park Service, and therefore protected under federal law. Other properties are protected under the National Environmental Policy Act (NEPA) process, (which is further discussed in Chapter 6 of this thesis), and UNESCO’s international World Heritage List. The most rigorous protections in the United States are local protections that are tied to local land use regulations and permitting through local review commissions. The enabling legislation and granted rights varies from state to state, but in many localities, inclusion in a historic district or explicit designation requires any changes to a property or site to require an additional level of permitting or permissions by a professional review board. States without enabling legislation or localities that have not created review committees, or included historic zones in local zoning ordinances, are only legally protected by efforts at the State or National level.

2.3.1 UNESCO

The UNESCO World Heritage Centre is the highest level international organization for the protection of heritage. When heritage covers multiple national political boundaries, the role of UNESCO becomes the first step in evaluating protections and management plans. In 1931, the Charter of Athens stated that “international organizations for Restoration on operational and advisory levels are to be established.” It further created the need for professionalism in heritage management, stating that this organization and its projects must be subjected to “knowledgeable criticism” in order to prevent future problems “which will cause loss of character and historical values to the structures.” The Charter of Athens gave the role of legislating and policing management to the individual counties, stating that “problems of preservation of historic sites are to be solved by legislation at national level for all countries, excavated sites which are not subject to immediate restoration should be reburied for protection, modern techniques and materials may be used…, historical sites are to be given strict custodial protection, [and] attention should be given to the protection of areas surrounding historic sites.”

The Paris Convention of 1972 created the programme of World Heritage. Under the Paris Convention, properties that fall under Article 1: Cultural Heritage and/or Article 2: Natural Heritage may be added to the World Heritage list if they are of Outstanding Universal Value and have met one of the ten criteria for selection. The list is administered by the UNESCO World Heritage Committee, composed of 21 delegates from their state parties. Article 3 of the Convention notes that each State shall “identify and delineate the different properties situated on its territory mentioned in Articles 1 and 2 above.” The national IUCN charter (for natural heritage) and ICOMOS charter (for cultural heritage) act as the professional nominating and

43 ICOMOS, Athens Charter.
evaluation bodies, maintaining the list of tentative World Heritage Properties. Annual recommendations are made to the World Heritage Committee, which votes annually whether or not to inscribe each nominated property on the World Heritage List. The ten criteria for selection, which since 2008 are no longer categorized as either natural or cultural, are:

1. to represent a masterpiece of human creative genius;
2. to exhibit an important interchange of human values, over a span of time or within a cultural area of the world, or developments in architecture or technology, monumental arts, town-planning or landscape design;
3. to bear a unique or at least exceptional testimony to a cultural tradition or to a civilization which is living or which has disappeared;
4. to be an outstanding example of a type of building, architectural or technological ensemble or landscape which illustrates (a) significant stage(s) in human history;
5. to be an outstanding example of a traditional human settlement, land-use, or sea-use which is representative of a culture (or cultures), or human interaction with the environment especially when it has become vulnerable under the impact of irreversible change;
6. to be directly or tangibly associated with events or living traditions, with ideas, or with beliefs, with artistic and literary works of outstanding universal significance. (The Committee considers that this criterion should preferably be used in conjunction with other criteria);
7. to contain superlative natural phenomena or areas of exceptional natural beauty and aesthetic importance;
8. to be outstanding examples representing major stages of earth's history, including the record of life, significant on-going geological processes in the development of landforms, or significant geomorphic or physiographic features;
9. to be outstanding examples representing significant on-going ecological and biological processes in the evolution and development of terrestrial, fresh water, coastal and marine ecosystems and communities of plants and animals;
10. to contain the most important and significant natural habitats for in-situ conservation of biological diversity, including those containing threatened species of outstanding universal value from the point of view of science or conservation.

2.3.2 UNESCO Regional Offices

UNESCO has taken some strides to divide its jurisdiction into Regional Bureaus for Sciences and Culture in Europe (BRESCE). The UNESCO-BRESCE office has existed since 1991, but was mostly a scientific and technology organization until 2002, when its name and mission were officially

44 Director General, UNESCO, Paris Convention.
45 UNESCO, Intergovernmental Committee For The Protection Of The World Cultural And Natural Heritage, and World Heritage Centre, “Operational Guidelines.”
changed to include culture. The UNESCO-BRESCE Office in Venice is focused on the integration of "science and culture into the national socio-economic strategies of development of the Southeastern European (SEE) Member States." The office works at "increasing cooperation and building bridges between EU countries, SEE and the Mediterranean area; contributing to the cooperation among Member States in the SEE sub-regions; and enhancing the building of peace, poverty alleviation, sustainable development and intercultural dialogue." Its specific working principles are to work within its member states to "develop partnership arrangements with national, sub-regional and regional institutions within the Bureau's geographical coverage; and, it will ensure continuity of its action in such a way as to achieve the objectives which should not be in endangered because of limited time or resources."

UNESCO-BRESCE acts a local arm, implementing specific UNESCO policies and mandates, but the Venice Office has taken strides to specifically implement the Ministerial Conference on Cultural Heritage in South-East Europe, first held in Mostar in 2004, and most recently held in Cetinje in 2010. Each conference has as ended with the signing of a declaration and plan for action to implement policies that promote shared heritage throughout SEE. The Cetinje Declaration states that "the priority of culture as a topic of and platform for enhanced bilateral, multilateral and intra-regional cooperation in South-Eastern Europe (hereinafter, SEE) should be re-affirmed and further strengthened." The declaration and action-plan call for more integration of culture into nation policy, and for more sharing of heritage knowledge between the countries.

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47 "How We Work | United Nations Educational, Scientific and Cultural Organization, UNESCO Office in Venice."
49 Ibid., 10.
50 Cetinje Declaration, 2.
2.3.3 ICOMOS

The International Council on Monuments and Sites (ICOMOS) is a professional network of experts who work for the conservation and protection of cultural heritage places. It is a global non-governmental organization associated with UNESCO, which was created during the Second Congress of Architects and Specialists of Historic Buildings, in Venice in 1964. The Congress adopted 13 resolutions, the first one being the Venice Charter for International Restoration, and the second one providing for the creation of ICOMOS. ICOMOS currently has 11,088 Individual Members and 95 National Committees. "ICOMOS is the Advisory Body of the World Heritage Committee for the Implementation of the World Heritage Convention of UNESCO. As such, it reviews the nominations of cultural world heritage of humanity and ensures the conservation status of properties."

2.3.4 IUCN

The International Union for Conservation of Nature (IUCN) is a professional conservation network dedicated to conserving biodiversity throughout the world. It is the nominating body for World Heritage sites of Natural heritage, and as such "it evaluates natural World Heritage Sites nominated for World Heritage Status, monitors the state of conservation of existing Sites, implements capacity building initiatives, and provides technical advice to the World Heritage Committee." The IUCN consists of more than 1,200 member organizations "including 200+ government and 900+ non-government organizations," nearly 11,000 scientists and experts members from 160 countries, and a staff of over 1,000 in IUCN offices, and public, NGO and

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51 ICOMOS, Venice Charter.
52 ICOMOS, "ICOMOS Missions and Visions."
53 Ibid.
54 IUCN, "About IUCN."
private member offices throughout the world.\textsuperscript{55} Additionally, as will be discussed later in this thesis, the IUCN maintains seven categories of Protected Areas, in order to “classify protected areas according to their management objectives.”\textsuperscript{56}

\subsection*{2.4 Varying definitions of heritage}

The first Congress of Architects and Specialist for Historic Buildings, through their Charter of Athens in 1931 created a Carta del Restauro to define the adequate protections and restorations of “structures” and “sites,” although the understanding through much of the document and through early preservation and restoration work was that these historical sites would be ancient monuments, and probably structures.\textsuperscript{57} By the second Congress of Architects and Specialists of Historic Buildings held in Venice thirty years later in 1964, the growing world heritage community had already determined that the Athens Charter’s scope of protecting “monuments” and “structures” was far too limiting.

The Venice Congress had been organized by UNESCO in 1945. The Congress established the Venice Charter to be carried out by the newly formed International Council on Monuments and Sites (ICOMOS). From the first article of the Venice Charter, “the concept of a historic monument embraces not only the single architectural work but also the urban or rural setting in which is found the evidence of a particular civilization, a significant development or a historic event.”\textsuperscript{58} These surrounding urban or rural setting settings were considered supportive of an “ancient monument” and emphasized that monuments exist in a context. Article 7 further states, “a monument is inseparable from the history to which it bears witness and from the setting in which it occurs. The moving of all or part of a monument cannot be allowed except where the safeguarding of that

\textsuperscript{55} Ibid.
\textsuperscript{56} “IUCN - IUCN Protected Area Management Categories.”
\textsuperscript{57} ICOMOS, Athens Charter.
\textsuperscript{58} ICOMOS, Venice Charter.
monument demands it or where it is justified by national or international interest of paramount importance.” The understanding of monuments was that their history and surrounding setting was as important as its structural integrity and should be protected as such.

At the Paris Convention of UNESCO in 1972, the designation of World Heritage was created to formally list cultural and natural heritage properties, each being distinct and equally important. The Paris Convention established Article 1 for the definition of Cultural Heritage and Article 2 for the definition of Natural Heritage, with no determination for properties that may fall in both the cultural and natural categories. Article 3 stated, that each State would “identify and delineate the different properties situated on its territory mentioned in Articles 1 and 2 above.” The Paris Convention further added the IUCN as the second nominating and evaluation body, in tandem with ICOMOS, in order to evaluate natural heritage. In 1992, UNESCO determined that those sites that may not be necessarily cultural, natural, or natural-cultural, but instead are sites that reflect a continued and sustained interaction between humans and nature, need their own protection and their own set of World Heritage guidelines.

2.5 Cultural Landscapes

Cultural landscapes are a natural delineation of heritage in situ. Therefore cultural landscapes exist anywhere the earth has been “modified by human action,” as Carl Sauer paraphrases George Perkins Marsh’s mid-nineteenth century writing. Sauer wrote in his 1956 essay, “The Agency of Man on the Earth,” that “wherever men live, they have operated to alter the aspect of the earth, both animate and inanimate, be it to their boon or bane.” The interaction results in a cultural space. If this cultural space is determined to be significant or worthy of preservation, it is

59 Ibid.
60 Director General, UNESCO, Paris Convention.
62 Ibid., 331.
then managed as protected heritage. If cultural landscapes can exist in any space where man has interacted with or modified the earth, than landscapes of cultural and natural importance vary in scale, location, and level of human intervention. Some are easy to define, but many are not. Landscapes exist at varying and overlapping scales, and often have no definable boundaries. The boundaries that do exist are based on natural features that may move or change over time, or on human political boundaries that may be arbitrary in regards to the natural world. There is also a tension between classifying a landscape as natural or as cultural because one prioritizes the work of nature absent man, and one assumes that man usually affects any landscape or site to varying degrees. Having a universal definition and framework to classify these places is certainly important, and the heritage field is just beginning to understand what the possibility of a universally important landscape might be.

Heritage was still generally considered as singular places during the ratification of World Heritage in 1972. The Egyptian pyramids at Giza and George Washington’s house at Mount Vernon were perceived as being both universally important and under some sort of threat. Both natural and cultural sites had easily definable borders. In wilderness areas, the border reflected the extent of the land that was owned or managed in such a way to protect the valuable natural resource. In the case of the cultural sites, it was usually just enough to protect the monument. The Pyramid Field at Giza famously preserves the Sphinx and the view looking towards his head, but gives no protection for development right up to his feet, so that a photograph of his rear-end shows his extremely urban siting, as illustrated in Figure 6.
Cynthia Robin and Nan Rothschild note that “the dimension of space as conceived by cultural historians was part of an abstract system that formed time-space grids for concretely defined cultures... Space was a neutral backdrop upon which the sites and artifacts of archaeological inquiry were situated. This early focus on sites and artifacts as active and the spaces they occupied as passive has affected archaeological theory and method and, we suggest, led to an archaeological focus on structures and site”\textsuperscript{63} Nevertheless, sites continue to be defined as collections of monuments and structures, and the landscape they exist in is simply supporting, if mentioned.

In 1992, UNESCO recognized the need to define these spaces and created a set of values to define, “significant interactions between people and the natural environment.” However, by

creating yet another specific and bounded distinction, the idea of landscapes, as ever changing, non-static, borderless places, are undervalued. Some of the landscape is arbitrarily given a higher value as a World Heritage site because it can fit within Robin and Rothschild’s distinction of sites and artifacts. The contributing and intersecting spaces not within the World Heritage site boundaries are not managed or protected from unsympathetic development. If these places are of such universal and outstanding value that the world community (understood through UNESCO) has decided to place them on the World Heritage list to protect them for the future, their management should better reflect their situation, as elements of a comprehensive landscape.

In response to the changing understanding of sites as possibly both natural and cultural in the last part of the twentieth century, archeologists and preservationists began to develop new distinctions and definitions of what was natural, what was cultural and how these definitions and places worked together. Knapp and Ashmore begin their study of landscape archeology by stating that, “what was once theorized as a passive backdrop or forcible determinant of culture is now seen as an active and far more complex entity in relation to human lives.” Rather than the landscape being the interstitial space, landscape is now understood as an active driver of human cultural development. Carl Sauer defined the term of cultural landscape as “fashioned from a natural landscape by a cultural group” with “culture is the agent, the natural are the medium, the cultural landscape is the result. Under the influence of a given culture, itself changing through time, the landscape undergoes development, passing through phases and probably reaching ultimately the end of its cycle of development.”

This categorizes certain landscapes as cultural landscapes (and therefore shaped by man), but it fails to consider either that all landscapes are affected by humans or that landscapes by definition

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65 Ashmore and Knapp, Archeologies of Landscapes, Contemporary Perspectives, 2.
66 Leighly, Land and Life: A Selection of the Writings of Carl Ortwin Sauer, 343.
are an agglomeration of their natural, cultural, and human environment. Anschuetz, Wilshusen, and Scheick argue for a more holistic approach to defining landscapes, writing that instead “authors [should] use a multiplicity of landscape references that differentially emphasize natural (e.g., ecological, geomorphologic, and hydrological) and cultural (e.g., technological, organizational, and cosmological) aspects of the human environment.” Their understanding is that by simply replacing the nomenclature of sites with landscape, we have gained no further understanding into human interaction and intervention on the land, but have instead simply created more verbal confusion and imprecision by expanding sites to be limitless landscapes.

As a result of their reviews of varying definitions of landscapes, Anschuetz and colleagues argue that landscapes should be understood in a four part paradigm: “Landscapes are not synonymous with natural environment,” “Landscapes are worlds of cultural product,” “Landscapes are the arena for all of a community’s activities,” and “Landscapes are dynamic constructions, with each community and each generation imposing its own cognitive map on an anthropogenic world of interconnected morphology, arrangement, and coherent meaning.” This comprehensive definition of landscape accurately reflects the reality of a place, but it unfortunately does nothing to create a bounded space that is easy to identify, measure, or study, because by encompassing all a community’s activities, and defining the “cognitive map” of each generation, the landscapes are constantly evolving and changing. If the mission of institutions like UNESCO is to protect places for the future, a constantly changing and evolving landscape creates substantial logistical problems, and so instead they must rely on definitions of landscape that allow for measurable and definable borders, and limit protection to only the “universally outstanding” features of a place.

Furthermore, William Cronon credits the creation of “sites,” with boundaries and different

67 Erickson, Clark, “The Domesticated Landscapes of the Bolivian Amazon,” 235–278.
69 Ibid., 160–161.
management (different than the contiguous non-site), as the actor that fundamentally prevents the landscape from functioning as it historically has. As soon as a landscape becomes protected, especially as “wilderness,” it is totally changed by humans, even if that change is only to prevent actions on the place.70

UNESCO, which again defines cultural landscapes simply as the “combined works of nature and of man,” currently acknowledges 66 landscapes as World Heritage (out of 725 cultural properties, 183 natural properties, and 28 mixed natural and cultural properties) for their expression of “a long and intimate relationship between peoples and their natural environment.”71 These World Heritage landscapes include “cultivated terraces on lofty mountains, gardens, sacred places ... [that] testify to the creative genius, social development and the imaginative and spiritual vitality of humanity. They are part of our collective identity.”72

Under current World Heritage standards, these landscapes are categorized as either cultural or natural, although current operational guidelines state that “cultural landscapes are cultural properties and represent the ‘combined works of nature and of man’ designated in Article 1 of the Convention” [Article 1 determining cultural heritage and Article 2, natural heritage].73 Current UNESCO guidelines continue, that these cultural landscapes “are illustrative of the evolution of human society and settlement over time, under the influence of the physical constraints and/or opportunities presented by their natural environment and of successive social, economic and cultural forces, both external and internal.”74 However, this concept sets up a dichotomy in cultural heritage between landscapes and monuments/sites. It inherently suggests that only landscapes

70 Cronon, Uncommon Ground, 88.
71 Director General, UNESCO, Paris Convention.
74 Ibid.
may be worthy of large scale, natural and cultural protection, while monuments/sites protection
ends at its property boundaries. But as Olsson explains in his theory of urban cultural landscapes,
any object exists within some type of landscape. He writes that, “the urban environment or urban
landscape is a complex system of recognized monuments, modest buildings and other built
structures. Consequently, a certain structure or object within the system is substantially defined and
characterized by the environmental context.” Therefore the effect of change to that object “has
an external impact on the surroundings, which can be negative or positive, and will indirectly
impact the understanding and valuation of adjacent objects.” So while the designation of
something being specifically a Cultural Landscape is admirable, when change is taking place near
heritage, it does affect that heritage in some way. These are not buffer areas, but simply are
surrounding space. Olsson writes, “in this way the surroundings, neighborhood, district or city add
and compound the value of each object.” These areas do not qualify as traditional heritage,
but Olsson concludes that

it seems reasonable to consider the urban landscape as a totality in heritage
management; not only monuments and conservation areas, but also modest
buildings and the urban landscape as such, as urban heritage. Thus, the view on
heritage put forward here is a systems view, which means that it is the interplay
between different parts of the system that characterize the urban landscape as
heritage, rather than separate monuments and conservation areas, which have
been identified by heritage experts. Thus, the urban heritage seen as a system
encompass not only defined conservation areas and heritage objects, but also
tangible and intangible phenomenon that link various objects and areas together,
and, thus, define their value in a broader setting.

Olsson’s argument for systems preservation, rather than the addition of more and more
categories may prove to finally be an answer to what exactly a cultural landscape is. Indeed, her point may
be that everything is a cultural landscape, as defined by UNESCO as properties that represent the

75 Olsson, “Citizen Input in Urban Heritage Management and Planning,” 376.
76 Ibid.
77 Ibid.
78 Ibid.
'combined works of nature and of man.' But she suggests that the question should instead be, how do we manage the effect of change to all this heritage.

Since 1992, the UNESCO Operational Guidelines for the Implementation of World Heritage have defined cultural landscapes as "cultural properties and represent the 'combined works of nature and of man' … They are illustrative of the evolution of human society and settlement over time, under the influence of the physical constraints and/or opportunities presented by their natural environment and of successive social, economic and cultural forces, both external and internal."79

The UNESCO concept of Cultural Landscape is divided into three main categories: clearly defined landscape, organically evolved landscape, and associative cultural landscape. UNESCO defines these categories as:

(i) The most easily identifiable is the clearly defined landscape designed and created intentionally by man. This embraces garden and parkland landscapes constructed for aesthetic reasons which are often (but not always) associated with religious or other monumental buildings and ensembles.

(ii) The second category is the organically evolved landscape. This results from an initial social, economic, administrative, and/or religious imperative and has developed its present form by association with and in response to its natural environment. Such landscapes reflect that process of evolution in their form and component features. They fall into two sub-categories:

- a relict (or fossil) landscape is one in which an evolutionary process came to an end at some time in the past, either abruptly or over a period. Its significant distinguishing features are, however, still visible in material form.

- a continuing landscape is one which retains an active social role in contemporary society closely associated with the traditional way of life, and in which the evolutionary process is still in progress. At the same time it exhibits significant material evidence of its evolution over time.

(iii) The final category is the associative cultural landscape. The inscription of such landscapes on the World Heritage List is justifiable by virtue of the powerful

79 Director General, UNESCO, Paris Convention.
religious, artistic or cultural associations of the natural element rather than material cultural evidence, which may be insignificant or even absent.\textsuperscript{80}

The first category – clearly defined landscapes – denotes sites that were directly created by humans for the purpose of having a human-made landscape, such as parkland and gardens. This category may be the easiest to classify, because they fit a standard conception of what a World Heritage landscape should be: a landscape constructed by humans for their enjoyment as a landscape.

The second category – organically evolved landscape – has grown out of a more contemporary understanding of humans' interaction with the landscape. Landscapes that may appear to be wilderness are now often known to be dramatically and regularly transformed by humans.\textsuperscript{81} The idea is that landscapes are not natural environments, but rather are cultural productions, an arena for a given community’s activities, and “dynamic constructions, with each community and each generation imposing its own cognitive map on an anthropogenic world of interconnected morphology, arrangement, and coherent meaning.”\textsuperscript{82} The UNESCO definitions further differentiate these landscapes into active and relict landscapes, where the relict landscape may need or warrant an outside management intervention to maintain it because the users who created the landscape are now absent or not maintaining the landscape in the same context.

The final category – associative cultural landscapes – includes landscapes that are traditionally the area around monumental or object-based heritage. These landscapes may be the reason why a building or town has been located in a particular location, and have historically been overlooked when managing heritage properties.

\textsuperscript{80} Ibid.
\textsuperscript{81} Kurt F. Anschuetz, Richard H. Wilshusen, and Cherie L. Scheick, “An Archaeology of Landscapes: Perspectives and Directions.”
\textsuperscript{82} Ibid., 161.
In addition to UNESCO, several national and multi-nation bodies have developed their own definitions of cultural landscape since the early 1990s, including the Council of Europe (which governs the members of the European Union) and United States Park Service.

The European Landscape Convention was adopted by the Council of Europe in Florence in 2000 and seeks to “acknowledge[e] that the quality and diversity of European landscapes constitute a common resource, and that it is important to co-operate towards its protection, management and planning.”83 According to the Convention, “landscape means an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors.”84 The language is similar to UNESCO’s landscape definition, but is codified by the individual governmental body of the signatory state. To date there are thirty-nine signatory states, and all but Switzerland and Malta have ratified the convention in their respective governments.

The United States National Park Service (NPS) established a definition of cultural landscapes in 1994, and includes, “geographic area, including both cultural and natural resources and the wildlife or domestic animals therein, associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values.”85 It separated cultural landscapes into four overlapping general types: historic sites, historic designed landscapes, historic vernacular landscapes, and ethnographic landscapes.”86 According to the current NPS Associate Director for Cultural Resources, Stephanie Toothman, the determination of cultural landscapes simply added a formal framework and name to something the Park Service had been inherently managing informally for years. Park managers understood that the cabin in the woods of Yosemite was as important for its construction and physicality, as it was for being in the wilderness of the Yosemite

83 Council of Europe, “Florence Convention.”
84 Ibid., Article 1.
86 Ibid.
Valley. Institutionally and in practice however, culture and nature were still considered to be separate. Historic preservationists and conservationists managed the historic building or monument, and ecologists and biologists managed the forest. The bureaucracy saw each as distinct because it was easier to budget and fund separate categories. Toothman suggests that with codification, the Cultural Heritage designation also substantially complicates heritage management. She suggests that the adoption of the NPS cultural landscapes distinction has become an avenue for comprehensive heritage making, because "how do you exclude anything with a cultural landscape definition?"87

2.6 Space versus Place

The study of sites and landscapes, as with any study of geographies, inevitably must discuss space versus place and the general nomenclature of space/place. The words are colloquially synonymous, but their connotations often vary drastically, and an understanding of their differences is useful when studying the growing scale of heritage. Peter J. Taylor explores Yi-Fu Tuan’s aptly named *Space and Place*, published in 1977, quoting Tuan that "space is more abstract than place," and annotating that, "space [is] treated as general and place as particular; space is everywhere, place is somewhere. Place has content; the idea of an empty place is eerie, an empty space is merely geometrical."88 Therefore heritage exists as places, with values and specificity. Relating to scale, Taylor again references Tuan, choosing another quote, that "place exists at different scales. At one extreme a favorite armchair is a place, at the other extreme the whole earth." Again, Taylor annotates Tuan by explaining that, "places are often viewed as local ... But there is no need to limit place creation to this one process, especially in political geography where the imagined community of the nation with its homeland place is central to so much research."89

87 Toothman, interview.
89 Ibid., 11–12.
As heritage areas grow, they become places on a scale similar to political places, and the
differentiation of heritage places can be lost. For example the case of the Tennessee Civil War
National Heritage Area, which is discussed further in Chapter 6, covers the entire state of
Tennessee. The political place of Tennessee and the heritage place of Civil War history share the
same boundaries. Because the political State as a place is familiar, the heritage area seems to
exist simply as an arbitrary or geometric space.

Most germane to this thesis, is the argument that Taylor takes from John Agnew (1987), that “using
Scottish and Italian examples he shows how the implicit sovereign territorial spatiality of
c conventional political models completely fails to account for critical contemporary political changes
which are inherently place based.”90 Cultural geographies, as localities with cultural specificity and
human familiarity are places and therefore have a theoretical opposition with this “implicit
sovereign territorial spatiality.” This is especially confused in the former Yugoslavia, where the
“imagined community of the nation,” has been in constant flux for the last century, and therefore,
narratives of places overlap each other and span political boundaries. The field of heritage
management is far more concerned with understanding and managing places, and so it inevitably
will find itself up against space-based political boundaries.

Taylor eventually offers a sort of theoretical white flag, by first adding some more place/space
based terms to the pot, writing that, “in geography in general the most popular concept has
undoubtedly been the region but each of the human geography subdisciplines seem to have their
own favoured where-and-what term: political geographers write a lot about territories, economic
g eographers study locations, cultural geographers seem to like landscapes and social geographers
have a concern for areas.”91 In this total confusion of terms, Taylor ultimately suggests “here what

90 Ibid., 14.
91 Ibid., 9.
is implicit in much geography literature: place and space are more primitive terms than the hitherto mentioned concepts." So for those concerned with cultural geography, “we tend to think of cultural landscapes and social areas as representing places while political territories and economic locations are viewed more as spaces, [or] in regional geography... there is a sense in which formal regions are discernible places whereas functional regions are analytical spaces.” The clarity of theoretical nomenclature, again as cultural landscapes as places that interact with political territorial spaces, unfortunately does little to help answer the simple problem of what to do when these “places” span multiple political “spaces.”

Finally, there is a concept of ‘place-making’ in the heritage field, which again, seeks to strengthen the differentiation between abstract spaces that contain heritage, and specific heritage places, that have strong connections and values in the minds of people who inhabit and move through them. Large scale heritage areas are the most likely to involve or contain populations. Their active daily spaces may have different meanings or values to them, than the larger ideas of a place. Without their inclusion and ownership of management strategies, there is a risk that they will leave or create strong opposition parties to the preservation of the greater “place.”

2.7 Borders

The creation of political places creates borders around those spaces. Living in the United States, where our borders have been, for the most part static for the past 250 years, it is easy to forget how fluid political borders really are. Yugoslavia existed in some form until 2006, when Montenegro was finally granted independence from Serbia (or it can be argued that until Kosovo is fully independent, the legacy of Yugoslavia still exists). The USSR and associated Eastern European socialist states only ceased to exist in the last thirty years. Less than 100 years ago,

92 Ibid.
93 Ibid.
Prussia, the Ottoman Empire, and Austro-Hungarian Empire were all in existence. And of course Scotland, Quebec, and Kosovo, are all still involved in serious, though considerably different, stages of succession form their current states. The national identity, as a small, often ethnically singular state, is a considerably modern idea. “In contemporary discussions, national identity has become a slogan for the cultural constitution of the nation-state. This interest in identity and boundaries has also been a consequence of the revival of ethno-regional movements, dislocation as a consequence of migration, forced movement or exile, or displacement in response to the imposition of a foreign culture by colonization.” Therefore the politics of national cultural identity, and the management structure of cultural heritage, is entirely dependent on the current political borders and national identity of a place, especially in Europe, where Ansso Paasi notes, “territorial transformations have been particularly intensive. While the narratives written on the history of Europe are often ready to trace [their] processes to ancient times, territorial transformations were particularly dramatic during the 20th century.”

The poststructuralist argument would be to destroy the boundary, or at least ignore it. However, Newman notes that we do in fact “live in a world of lines and compartments. We may not necessarily see the lines, but they order our daily life practices, strengthening our belonging to, and identity with, places and groups, while- at one and the same time - perpetuating and reperpetuating notions of difference and othering.” So while the poststructuralists have a theoretical point, the case of political border in Southeast Europe, for example, are a real set of “lines and compartments,” which cultural managers must work with and within. Newman continues that, “for some, the notion of a 'borderless' and 'deterritorialized' world has become a buzz word for globalization…, but it is not possible to imagine a world which is borderless or

95 Ibid., 8.
deterritorialized. Even the globalization purists would accept that the basic ordering of society requires categories and compartments, and that borders create order.”97

Jones also explores boundaries and borders as categorical designations in the poststructuralist sense. He explores Foucault and Derrida’s analysis of categories, and then applies the categories to the territorial realm, as boundaries and borders. He makes a differentiation between boundary and borders writing that they are often “used interchangeably in the literature,” but that he “prefers boundary to be a broad term that refers to any type of division whether it is a semantic divider between categories or a line-on-the-ground political division... [and] the term border specifically for the latter case of territorialized line-on-the-ground political borders.”98

Jones uses Fredrick Barth’s argument that emphasizes the “importance of boundaries and the boundary-making process rather than the particular category itself.”99 Barth argues “a boundary is a particular conceptual construct that people sometimes press upon the world.”100 He suggested that rather than thinking of boundaries as fixed divisions, scholars should “explore the different processes that are involved in generating and maintaining ethnic groups.” by investigating the construction of the boundaries between them.101 Updating cultural groups for Barth’s 1969 term of “ethnic groups,” a strong argument is created for large scale cultural heritage that is based on reimagining boundaries based on the values of the cultures that are living within them.

97 Ibid., 143.
99 Ibid.
100 Ibid.
101 Ibid., 180.
2.8 The European Union (EU)

The EU is a significant jurisdictional actor for much of the world. There are 27 member counties, 6 official candidate counties, and 2 official potential candidate countries.\textsuperscript{102} Through its legislative bodies, the EU maintains conventions and treaties that allow signatures from any state that feels it will be influenced by the action of the convention. Certain conventions include not just European signatories, but signatories from around the Mediterranean, and from Asiatic former Soviet states. Of the 27 current transboundary World Heritage Sites, 19 are on the European Continent, and so whether they are in the European Union, in candidate countries, or are simply on the Continent, the European Union, Council of Europe, and their associated conventions and regulations play a significant place in heritage management. For its member countries, the EU adds another level of jurisdiction, and therefore protection of treaties or compacts between its member states. Paasi notes that in Europe, the “territorial structures and the meanings associated with them have changed dramatically over the course of time, reflecting the perpetual regional transformation of economic, political, administrative and cultural practices and discourses, and inherent relations of power.”\textsuperscript{103} The influence of the EU, especially over developing economies, signals a new shift towards economic cooperation, as well as a more comprehensive model for managing shared heritage and development, and for creating models to better manage local culture and development.

Bahar Rumelili also argues that for countries outside of the EU border who wish to gain admittance, the EU can have a much stronger role. His paper analyzes the EU’s role in conflict

\textsuperscript{102} The member countries are: Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom. The six candidate counties are Iceland, Macedonia, Montenegro, Serbia, Turkey, and Croatia, which is expected to become a member in July 2013. Albania and Bosnia and Herzegovina are officially recognized potential candidate countries.

\textsuperscript{103} Paasi, “Europe as a Social Process and Discourse,” 7.
resolution, but his analysis can easily apply to any group of policies which have a strong set of written and understood values and norms. He explains four different pathways of EU intervention. What is often observed, is that the EU can leverage membership to force particular states to act a certain way, or agree to certain terms, and that it has influence both at the elite, or ruling level, and at the societal level. “At the elite level, the EU can employ the carrot/stick of granting/withdrawing an offer of membership, candidate, or association status, or specific benefits associated with those positions to coerce or induce parties to seek resolution of their disputes (compulsory impact).”104 Rumelili also writes that the EU simultaneously provides these nations with a “normative structure for the rationalization and legitimization of alternative foreign policy options at the domestic elite level.” The ruling parties are compelled to follow qualitative norms in a variety of backgrounds, including the protection and designation of heritage and standards. At the societal level, the EU has as much influence, because it is able to “selectively direct material resources to non-governmental initiatives, which are promoting inter-societal collaboration and advocating peaceful resolution” (or conscientious management). Rumelili concludes that at the same time as its other influences, the EU also “indirectly provides a discursive structure (i.e. the discourse of a common European identity) that allows for the rewriting of the identity and conflict discourses at the societal level.”105

Specifically in the context of implementation of the UNECE’s Water Convention, which is discussed in detail in Chapter Three of this thesis, the authors of the Second Assessment of Transboundary Rivers, Lakes and Groundwaters found that in Southeast Europe, the “EU acquis communautaire and in particular the WFD106 constitute the basis for this reform process both for the countries that are

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104 Rumelili, “Transforming Conflicts on EU Borders.”
105 Ibid.
106 Council of Europe’s Waters Framework Directive.
members of the EU and, to a certain extent, also for those that are not yet members.”107 They found that this was particularly true in the EU Accession Process, stating that the “Stabilization and Association Process and the EU Accession Process have played an important role in calling for integration of policies and supporting water-related investments.”108 Bosse and Korosteleva-Polglase, in their analysis of Central and Eastern Europe, also find this result, noting that “the 2004 enlargement [of the EU] is widely regarded as the single most effective foreign policy strategy in the Union’s history, and the recent European Neighbourhood Policy (ENP) was designed to repeat that success in countries located on the EU’s new Eastern borders.109 Finally, the role of the EU in spatial planning has been noted in several studies, especially the role of the European Spatial Development Perspective (ESDP). “As an advisory document, the ESDP is intended to inform and coordinate the decisions of the EU that affect spatial development patterns, and to foster cooperation between various regions within Europe”110

2.9 The Role of Civil Society

The adaptation of transboundary management techniques varies significantly in different regions of the world. But that is not to say that successful techniques from one region cannot be adopted because of the specific and differing governmental framework that exists from one location to another. In fact, any variance in government structure poses a similar level of difficulty, and so the more examples of successful management that exist, the better the possibility that one will fit in a given suggestion.

Harvey Locke argues that in order for management of heritage at any scale to exist, there must be a strong will from an extra-governmental force. He asserts that it is not the government

107 Economic Commission for Europe Convention on the Protection and Use of Transboundary Watercourses and International Lakes, Second Assessment of Transboundary Rivers, Lakes and Groundwaters, 47.
108 Ibid.
structure, but the civil society that is can determine the success of protecting heritage. “Civil society’s engagement, or lack of it, has been and will likely to continue to be the determining factor in the success of protected areas.” He defines civil society as “a way of referring to the public when it acts as individual citizens or through nongovernmental organizations for public-spirited reasons, and is distinct from other social groupings such as government, business, or family.” Willets defines civil society as “all public activity, by any individuals, organizations or movements, other than government employees acting in a governmental capacity. In the broadest sense, it encompasses all social, economic, cultural and political relations, but the emphasis is usually on the political aspects of these relations.” Willets definition specifies that civil society is the non-governmental actors in political decisions, and in heritage management they take the role of advocating the non-governmental position in governmental policies and legislation.

The Adirondack Park, and other early North American protected areas, Locke maintains that “contrary to recent conventional academic wisdom, the origins of Canada’s parks and protected areas lies not in business interests or the doctrine of commercial usefulness, but rather in the interests of civil society. Indeed, it is the special innovation of protected areas in North America… starting in the 19th century, that they are dedicated to the public.” The Adirondack Park was a civil societal response to the destruction of a place by unrestrained Robber Baron capitalism, and the inability of the existing governmental structure to protect a place for the people. Locke’s paper is focused on Canadian heritage and the origins of North American civil society, but scholarship on post-communist society, and Yugoslav society after the death of Tito, explains that when governmental socialism wanes, what arises is a strong civil society to contrast the ailing

111 Locke, “Civil Society and Protected Area Lessons from Canada’s Experience,” 101.
112 Ibid.
113 Willetts, What Is a Non-Governmental Organization?
government structures that had sought to integrate societal interests with government. Alvin Gouldner explains that, “the more [Karl] Marx ignored and devalued civil society the more he formulated a socialism without safeguards, a socialism whose rise to power could only take the form of centralization.” With decentralization, the civil society re-emerged in much of Eastern Europe. So, although the origins are from two intensely contrasting economic systems, under Locke’s assertion, heritage management remains the realm of the civil society in young and advanced Capitalist governments.

Today, civil society is included in the planning and management processes in several ways. Local non-governmental organizations (NGOs) may be used as a proxy for the general civil society. NGOs are generally believed to be an organizational creation of the United Nations in order to “differentiate in its Charter between participation rights for intergovernmental specialized agencies and those for international private organizations,” although they are now associated far beyond its realm.

Willets, through City College London, maintains working definitions based on current United Nations statues and glossaries. He explains NGOs as organizations independent from any direct government control, and although their individual structure is very different, they are generally not-for-profit, registered with their national government as such, and engaged in one interest (such as promoting local heritage). They are also generally regarded as “not be constituted as a political party; it will be non-profit-making and it will be not be a criminal group, in particular it will be non-violent.” Furthermore, they are often considered pressure groups, as opposed to interest groups, where pressure groups are concerned with outcomes which “do not directly benefit themselves. It emphasizes the processes by which groups mobilize support to

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116 Gouldner, The Two Marxisms, 355.
117 Willetts, What Is a Non-Governmental Organization?
118 Ibid.
promote their political values." Chapter 5 of this thesis further evaluates the roles of NGOs in managing transboundary cultural heritage, especially the role of the SEE Heritage Network, a regional collection of local NGOs.

Additionally, civil society may simply be represented by individual actors who voluntarily participate, or who are sought out because they are deemed to be crucial stakeholders. Social movements and political activists, along with economic actors may also strive to influence heritage policies.

119 Ibid.
CHAPTER 3: LEGAL STRUCTURES FOR TRANSBOUNDARY SITES

The problem with managing heritage, and even standard urban and regional planning is that it is usually done within political boundaries because it is those political entities that have the legal right to control land use. However, the political boundaries do not always reflect the cultural or historical movements of people, but are instead sometimes created by drawing lines on a map that reflect political compromises. The populations of South America have been divided into Spanish and Portuguese spheres of influence since 1494, when the two kingdoms agreed to divide the continent along a north-south meridian 370 leagues west of Cape Verde Islands. The United States and Canada are divided, for most of their border, by the 49th parallel.

These division generally function relatively well today. But places like Point Roberts, Washington, 20 miles south of Vancouver, show in Figure 6, can be left in political limbo. Point Roberts is the southern portion of the British Columbian peninsula, which just happens to fall below the 49th parallel. Therefore Point Roberts is in the United State, although the only way to access this 5 square-mile town is to drive north crossing the international border into Canada, then 25 miles through Canada, then south across a second international border back into the United States, and Point Robert. According to Washington State law, this town’s planning and zoning are administered from the County seat of Whatcom County, 50 miles and two international borders away, in Bellingham. Because of the political border, the city of Vancouver, 20 miles to the north, has no jurisdiction over land development, heritage, or the environment of a community that is in all regards its suburb. The case is certainly anecdotal, but illustrates the absurdity that can develop from the constructs of political borders and highlights how legal multilateral agreements are sometimes necessary to historic, cultural, or natural places divided by borders.
The simplest solution would appear to be to increase the scale of government. In the United States, there is a federal government which, especially through the so-called interstate commerce clause, regulates activities which affect multiple states. Additionally, multilateral agreements and bodies such as NATO and the United Nations provide government structures for activities whose affect is beyond individual national border. Of course, the UNESCO World Heritage Convention is in essence a multi-lateral convention to protect shared heritage. But its efficacy is only as strong as its policing ability because it has no sovereignty or jurisdiction. The United States has had great success in enforcing multi-state legislation by withholding federal funding. The United Nations, however, has been slow to penalize its members who break or ignore international conventions, unless human lives are at risk, which is rarely the case in heritage protection. It has very little leverage with which to force its members to uphold protocols, and so it instead relies on diplomatic agreements.

Beyond bigger government, legal agreements, coupled with strong education on their importance, have historically been the best ways to legally protect transboundary heritage. These agreements for the most part originate from a need to protect the natural environment, especially watersheds,
which can span many national borders, and whose impact can affect entire continents. Their planning at a regional scale is crucial to the protection of any one part. The examples of the UNECE Water Convention, U.S. Multi-State Water Compacts, and the IUCN’s management categories, offer three examples of the legal structures used to successfully manage natural heritage. Their success is based mainly in the understanding of a fundamental human need for clean water. Their adaptation for cultural heritage management will only be successful if the urgency of protection can be understood at a similar scale.

3.1 UNECE Water Convention

Watersheds are especially easy to understand in a transboundary context. Water is a necessity for life, and its movement through streams, rivers, lakes, and into oceans, without regards to political borders is observable and simple to understand. Because of these two facts, watersheds have been the earliest protected transboundary sites since the Colorado River Compact in 1922, and there are numerous examples of institutional and legal structures for their management, in order to adequately serve all users of the watershed. This includes multi-state compacts and protections under multi-lateral conventions. The conventions are especially useful, because they provide a legal structure that can be adapted for more localized and specific agreements.\textsuperscript{120}

The UNECE’s Water Convention was adopted in Helsinki, Finland on March 17, 1992, and has been extremely successful in systematically creating localized management agreements for each riparian basin in Europe, including those flowing into central Asia. The UNECE Water Convention’s central aim is to strengthen measures at the local, national and transboundary levels to protect and ensure the quantity, quality and sustainable use of transboundary water resources — both surface waters and groundwaters. The Convention takes a holistic approach, based on the

\textsuperscript{120} Bernardini, UNECE Water Convention Secretariat, UNECE Water Convention Celebrates 20 Years of Transboundary Water Cooperation as It Prepares to Go Global.
understanding that water resources play an integral part in ecosystems as well as in human societies and economies. The convention has been, since 2003, open to non ECE members, further expanding its control of entire systems, irrespective of political boundaries. The ratification of the Convention “requires countries to fulfill certain obligations, from observing general principles to implementing concrete actions.”\footnote{121} Specifically, countries sharing a transboundary waterway are expected “to enter into specific bilateral or multilateral agreements and to create institutions — joint bodies such as river and lake commissions — to meet these responsibilities.”\footnote{122}

\footnote{121} Ibid. The Parties to the UNECE Water Convention are Albania, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Kazakhstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine, Uzbekistan and the European Union. \footnote{122} Ibid.
In Southeastern Europe, the most successful example of implementation is the Framework Agreement on the Sava River Basin (FASRB) between Croatia, Bosnia and Herzegovina, Serbia and Slovenia, signed in late 2002 and in force since 2004. The FASRB created the

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International Sava River Basin Commission, a legal incorporated international organization, and gives it the “international legal capacity for making decisions in the field of navigation and providing recommendations to the countries on all other issues with the purpose of implementation of the FASRB, especially the following mutually agreed goals:

(a) establishment of an international navigation regime on the Sava and its navigable tributaries;

(b) establishment of sustainable water management; and

(c) undertaking measures to prevent or limit hazards and to reduce or eliminate their adverse consequences.\(^\text{125}\)

Skadar Lake and the Morača River, which feeds it, make up the Lake Skadar/Shkodra Sub-basin of the Drin River Basin, and are part of the Dinaric east coast aquifer.\(^\text{126}\) All three transboundary basins are regulated as part of the Drainage Basin of the Mediterranean Sea, under the UNECE Water Convention.\(^\text{127}\) However, even though Albania has signed and ratified the convention (in 1994), Montenegro has not. The Drin Core Group (DCG) has been established, and the Agreement for the Protection and Sustainable Development of the Skadar/Shkoder Lake was signed in 2008, although neither has completed implementation plans. The 2008 agreement, serves as the “legal instrument for the implementation of the joint Strategic Action Plan regarding the lake, previously agreed by the two countries.\(^\text{128}\) The completion of the plan is not required as long as Montenegro is not a signatory to the Convention.

\(^{125}\) Ibid., 9–10.

\(^{126}\) Ibid., 4.


The DCG is comprised of appointed representatives of the environmental and water government ministries of Albania, Greece, FYR Macedonia, Montenegro, and, Kosovo and the Prespa Park Management Committee; Lake Ohrid Watershed Committee; Lake Skadar-Shkoder Commission, along with representatives from UNECE; Global Water Partnership- Mediterranean; and the Mediterranean Information Office for Environment, Culture and Sustainable Development.

Albania and Montenegro currently have joint agreements governing the Drin River, Skadar/Shkoder Lake, and the Buna/Bojana River. These include the general Protocol on Cooperation on Water Management (2003); and the Skadar/Shkoder Lake Memorandum of Understanding for Cooperation in the Field of Environment (2003). The latter expired in May 2008, with the signing of the Agreement for the Protection and Sustainable Development of the Skadar/Shkoder Lake, which established the Skadar/Shkoder Lake Commission. The Commission is actively working to create a new bilateral MoU.129

Crucially, the UNECE Water Convention has continued pressure to create the institutions necessary to manage water resources at the varying political levels necessary for complete planning. It works to include NGOs that provide capacity building and funding to support developing regions, such as Southeast Europe. It has a direct plan of action, which when completed, will create a dynamic set of local, legally binding protections for all of the water and water systems throughout Europe.

3.2 Multi-state Water Compacts

The legal structure that allows two governments to share jurisdiction and administration is a multi-jurisdictional or transboundary compact. In the United States, inter-state compacts are used for a variety of shared management circumstances and are being used more and more for the

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management of natural resources. Compacts are negotiated and signed by representatives of each state and then must be ratified by their legislatures. They “generally, but not always, require congressional approval,” and in effect, they create an “intermediate level of regulation between federal and state levels.” The Congressional approval “transforms the compact into federal law.” Often, these compacts call for the creation of an “administrative agency called a commission to make rules, gather information and enforce the compact.”

Interstate compacts have been traditionally used to manage water allocation rights in the West, especially in the Supreme Court case that upheld their use, Intake Water Co. v. Yellowstone River Compact Commission. There is not a large shift for these water allocation compacts to include clauses relating to the conservation of water, then the preservation of riparian buffers and uses, and ultimately to the management of entire watersheds. Two such compacts are the Delaware River Basin Compact, and the Great Lakes Basin Compact, the latter being crucial to this study because it includes associative membership for two Canadian provinces.

The Delaware River Basin Commission (DRBC) was created in 1961, when President Kennedy and the governors of Delaware, New Jersey, Pennsylvania, and New York signed the Delaware River Basin Compact, “creating a regional body with the force of law to oversee a unified approach to managing a river system without regard to political boundaries.” The compact included the Divisional Engineer for the U.S. Army Corps of Engineers, creating a pact between four States and the federal government. The DRBC, however, like other commissions has become more and more political in recent years. In the past year the DRBC has failed to vote to regulate (or not regulate)

132 “Delaware River Basin Commission|About DRBC."
gas extraction through hydraulic fracturing in the Delaware River Basin, a practice which is explicitly allowed in Pennsylvania and denied in New York. The DRBC has, in this case, been unsuccessful in acting beyond politics for the best interest of the conservation of the Delaware Basin.

The Great Lakes are governed by several interstate compacts, which include Canadian Provinces in varying capacities. The Great Lakes Basin Commission was created in 1955 by the signing of the Great Lakes Basin Compact by the states of New York, Pennsylvania, Ohio, Illinois, Indiana, Michigan, Minnesota, and Wisconsin, and was granted congressional consent in 1968. A Declaration of Partnership established associate membership for the Canadian provinces in 1999.\textsuperscript{133} Quebec signed on the compact in 2005 and in 2008 Ontario joined, prompting the statement that “the Great Lakes Commission is the only state/provincial organization of its kind in the world. Founded in both state and U.S. federal law and benefiting from a unique, binational partnership with Ontario and Québec, it is ideally suited to promote a consistent and coordinated

\textsuperscript{133} “The Great Lakes Basin Compact.”
interagency and integrated approach to issues associated with the greatest system of freshwater on the face of the earth."\textsuperscript{134}

In addition, the Great Lakes–Saint Lawrence River Basin Sustainable Water Resources Agreement and Compact were signed by the Governors of the eight states and the Premiers of the two Provinces (Quebec and Ontario) on December 13, 2005. President Bush signed the Compact into law in October 2008, after passing in both the House and Senate. It creates a binding legal framework to create multi-lateral laws regulating the use of the lakes, however, has not actually created any binding multi-lateral laws.

3.3 IUCN Management Categories

The most comprehensive model for the protection of natural heritage, are the management categories defined by the IUCN. IUCN categorizes seven “Protected Area Management Categories,” in order to “classify protected areas according to their management objectives. The categories are recognized by international bodies such as the United Nations and by many national governments as the global standard for defining and recording protected areas and as such are increasingly being incorporated into government legislation.”\textsuperscript{135} Because the categories are clear, varied, and designated as part of an international convention, they are also widely adopted by national government, and therefore create a legal structure that is easily shared and reproducible. Their intention is explicitly for the adoption of individual national and sub-national governments, and so their collective benefit is a shared set of values and laws that are legally binding for each of the governments, but which reflect international best practices and local values.

\textsuperscript{134} Ibid.
\textsuperscript{135} “IUCN - IUCN Protected Area Management Categories.”
The seven IUCN categories are Strict Nature Reserve; Wilderness Area; National Park; Natural Monument or Feature; Habitat/Species Management Area; Protected Landscape/Seascape; and Protected area with sustainable use of natural resources. While several of these categories, especially Landscape/Seascape and national parks, specifically account for a cultural component in their definition, these are generally preserved to protect natural resources, biodiversity, and wildlife habitat. Human’s interact with these sites, mostly through tourism and site-seeing, although it varies from one category to another. The last category, Protected Areas, is the only one which specifically plans for non-touristic human use, although it specifically states that most of the land is “in a natural condition, where a proportion is under sustainable natural resource management and where low-level non-industrial use of natural resources compatible with nature conservation is seen as one of the main aims of the area.”136 Despite the lack of human settlement and development within the boundaries of these protected areas, they are extremely successful throughout the world in protecting natural resources.

The category which is most often used for the large scale protection of cultural heritage are the Protected Landscape/Seascape. Adrian Phillips, chair of IUCN’s World Commission on Protected Areas, has written about the importance of using the World Heritage cultural landscape designation for these areas, writing that “the significance of this development is not confined to the relatively few sites which will be recognized under the [World Heritage] convention. Just as important in the long run is the encouragement that the international interest in World Heritage cultural landscapes will give to the conservation of landscapes generally and to the collaborative working between experts in cultural conservation and the conservation of natural values.”137

136 “IUCN - Category VI - Protected Area with Sustainable Use of Natural Resources.”
Phillips is also concerned with the potential overlap of World Heritage Cultural Landscape and IUCN Protected Landscape/Seascapes. He developed the following table to provide an analysis of the 36 World Heritage Cultural Landscapes which were listed as of 2005.\(^\text{138}\)

<table>
<thead>
<tr>
<th>Initiative</th>
<th>Character of landscape affected</th>
<th>Geographical scope of application</th>
<th>Areas covered by the initiative</th>
<th>Main aims</th>
</tr>
</thead>
<tbody>
<tr>
<td>World Heritage Convention Cultural Landscapes</td>
<td>Outstanding universal value</td>
<td>Global</td>
<td>Any appropriate area</td>
<td>Protect heritage values</td>
</tr>
<tr>
<td>Category V protected Landscapes/Seascapes</td>
<td>Landscapes/seascapes that deserve protection</td>
<td>National and sub-national</td>
<td>Areas largely unaffected by intensive development</td>
<td>Integrate activities and enhance natural and cultural values</td>
</tr>
</tbody>
</table>

His chart clearly differentiates the role of World Heritage as having global application, and no restriction on the intensity of development present. However the IUCN category distinguished that management should “enhance” the role culture and nature play together in the landscape, which is more sympathetic to the idea of a working or continuing landscape that “heritage protection” may be. In his analysis he finds that half of the World Heritage cultural landscapes are also locally designated as IUCN protected areas.

In his research with Beresford, Phillips sees critical flaws in how protected areas are managed today, and within those flaws, sees a larger role for development, communities, and people. They write that protected areas “often suffer from encroachment, poaching, unregulated tourism, deforestation, desertification, pollution, and so forth,” and that this varies incredibly from nation to nation, with some countries simply having “paper parks”—there by law, but in reality largely a

They continue that many areas lack management plans and that the initial public investment in establishing the parks are then never followed up with any funds for management. They also add that the professionalism and expertise of park managers varies wildly. Their final two points speak specifically to the interaction of development and protected areas. The first is that “protected areas often ignored in national and regional development planning, and in sectoral planning.” And the second, and “most important of all, everywhere local communities tend to be alienated from protected areas nearby or in which they live. Yet without winning the “hearts and minds” of the people directly affected, conservation is at best a means of buying time.”

As a solution to these problems, Beresford and Phillips write that “protected landscapes—and seascapes—provide an important key to the realization of sustainable living. They are usually areas of outstanding visual quality, rich in biological diversity and cultural value because of the presence of people. Importantly, they represent a realistic way of achieving conservation objectives on private working lands.” They write that landscapes are a series of complex interactions that tie current and the past. “If we are to prepare plans and policies for the future management of landscapes, we need to understand the nature and extent of these interactions.” In understanding these relationships, managers can address the “central management challenge of protected landscapes,” which takes into account “the pattern of land use and ownership, the social structures of the area, the current state of the economy, the cultural and political organisation, and the history, the language, and religion of the area.” The challenge of creating successfully protected landscapes is both “the effective conservation of the natural and

140 Ibid.
141 Ibid., 17.
142 Ibid., 20.
143 Ibid.
144 Ibid.
cultural environment, and continued viability of the local economy.” Yet, Philips does not comment on the fact that most protected landscapes contain extremely limited development and in fact the IUCN guidelines preference these undeveloped landscapes for protection.

Mitchell and Buggey point out the problem with nesting national protections of cultural landscapes within a framework established for natural heritage protection. They note that there is a strong division in the field of natural conservation over whether humans are the critical creators of or strong actors in landscape; or whether humans are simply an animal present in an ecosystem, or worse humans are the destructing force of natural succession. They write that, “examining the fields of nature conservation and cultural resource preservation side by side illustrates the dramatic dichotomy in the perception of landscape and the relationship of humans and the environment. One perspective is biocentric, based on the intrinsic value of wildness and its complex of species in the absence of humans; the other, anthropocentric, celebrating the many aspects of cultural achievement and development.”

Heritage management and cultural and historic preservation are strongly influenced by the writings of William Cronon and those who side with the anthropocentric perspective. By relying on a field that is split over whether humans even have a place in conservation, the management of cultural heritage comes out badly wounded.

The IUCN and the World Commission on Protected Areas has also managed the Global Transboundary Conservation Network since 1997. The aim of the Network is to “promote and encourage transboundary conservation for the conservation of nature with associated ecosystem services and cultural values while promoting peace and co-operation among nations through

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145 Ibid.
147 Cronon, Uncommon Ground.
enhancing knowledge and capacity for effective planning and management of transboundary conservation areas.” It is designed as a specialists group, which provides capacity in creating these transboundary sites, especially in the case of threat, or clear opportunity. Most of the parks in the program are managed as national parks by the individual countries, with non-binding joint management programs, or agreements to create such programs.

3.4 The European Landscape Convention

The European Landscape Convention was adopted by the Council of Europe in Florence in 2000 and came into force on March 1, 2004. It seeks to “acknowledge[e] that the quality and diversity of European landscapes constitute a common resource, and that it is important to cooperate towards its protection, management and planning.” The Convention is intended as a policy document to mandate its signatories to plan for protection of their landscapes, but it also offers an important, though broad definition of landscape. According to the Convention, “landscape means an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors.” European Conventions, as the rules created by the Council of Europe, have strong influence on countries who have officially submitted their applications for EU membership. The failure of a signatory to uphold their commitments to a European convention can be used as official conditions for the delay of acceptance into the EU.

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148 “Our Mission: Global Transboundary Protected Areas Network.”
149 Sandwith et al., “Transboundary Protected Areas for Peace and Co-operation.”
150 The following countries have signed and ratified the European Landscape Convention: Albania, Andorra, Armenia, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Georgia, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, FYROM, Turkey, Ukraine, United Kingdom. Switzerland and Malta have signed but not ratified the Convention.
151 Council of Europe, “Florence Convention.”
152 Ibid., Article 1.
Each signatory to the Convention is expected to “recognise landscapes in law as an essential component of people’s surroundings, an expression of the diversity of their shared cultural and natural heritage, and a foundation of their identity.”¹⁵³ Beyond laws, the parties are expected to create and implement policies, through stakeholder participation, that are “aimed at landscape protection, management and planning through the adoption of the specific measures set out in Article 6.”¹⁵⁴

Specifically, the countries are expected to “increase awareness among the civil society, private organisations, and public authorities of the value of landscapes, their role and changes to them.”¹⁵⁵ They are expected to promote training for specialists including for protection, management, and planning, including the creation of university training programs relating to landscape protection, management and planning. They are expected to identify and assess landscapes in the territory, characterize the threats to those landscapes, and monitor changes, specifically, “taking into account the particular values assigned to them by the interested parties and the population concerned.”¹⁵⁶ Additionally, each country is expected to define their “landscape quality objectives,” through consultation with stakeholders and the public, and to then create specific implementation policies “aimed at protecting, managing and/or planning the landscape.”¹⁵⁷ They will the work to “integrate landscape into its regional and town planning policies and in its cultural, environmental, agricultural, social and economic policies, as well as in any other policies with possible direct or indirect impact on landscape.”¹⁵⁸

¹⁵³ Council of Europe, “Florence Convention.”
¹⁵⁴ Ibid.
¹⁵⁵ Ibid.
¹⁵⁶ Ibid.
¹⁵⁷ Ibid.
¹⁵⁸ Ibid.
landscapes, stating that “the Parties shall encourage transfrontier co-operation on local and regional level and, wherever necessary, prepare and implement joint landscape programmes.”

3.5 National Heritage Areas

In the United States, the national model of regional heritage planning began as a way to manage heritage along river corridors in urbanized areas. Today, these National Heritage Areas (NHAs), are a designation that does not involve any shift of land ownership to the federal government, as a National Park designation would. Instead, the National Park Service (NPS) provides funding and technical assistance for a manager, often a not-for-profit, to coordinate heritage and conservation between the federal, state, local, and private actors, in a region. NHAs often involve environmental and economic aspects along with cultural heritage management as a way to improve the economic, cultural, and natural environment of a corridor or region.

In the 1970's there was substantial interest in creating recreational places, near urbanized, populated areas. NHAs began as a concept in 1976 when Congress directed the National Park Service to conduct the National Urban Recreation Study, which recommended “establishment of a system of national reserve landscapes based on a partnership between local, state, and federal governments; creation of a new urban recreation funding program; and a series of specific place based heritage areas.” The report, Greenline Parks: An Approach to Preserving Recreational Landscapes in Urban Areas, “suggested that special landscapes could be protected using a combination of federal, state, and local means under a coordinated regional plan.” In 1979, Congress established Lowell National Historical Park as an attempt to economically revitalize the former mill city. The park system along the Merrimack River “interprets the resources representing Lowell’s role in the 19th century American industrial revolution but also to serves as a catalyst in

159 Ibid., sec. 9.
161 Ibid.
revitalizing the city’s physical, economic and cultural environments.”¹⁶² Like a traditional National Park, the NPS owns the buildings within the official park boundary, however, the park is not contiguous, and overlaps the Lowell Historic District, which includes privately owned buildings. The management of the park includes planning for economic development within the Historic District and constant community impact and feedback, including the project, shown in Figure 11.

Figure 11: How would you remake Lowell? As part of the community outreach, this model of Lowell allows visitors to allocate funding by rearranging colored blocks in vacant or underutilized areas. The blocks represent schools, parks, commercial, residential, and industrial development, A. Church, 2011.

¹⁶² “Management - Lowell National Historical Park.”
The lessons from the Greenline Parks report were applied in 1979 to the NPS River and Trails Program, which integrated heritage and water conservation techniques with federal, state, local, and private partnerships, with a community based planning approach. “Requests came for places where community, and often congressional, leaders wanted to coordinate historic preservation, parks, and economic development into an integrated approach.”163 In 1984 the NPS designated the first of the National Heritage Areas, the Illinois and Michigan Canal National Heritage Corridor (I&M), along the Des Plaines River. “The I&M initially was an educational and identification program undertaken by the Open Lands Project, a private not-for-profit organization that focused on a 25-mile segment of the corridor along the Des Plaines River.”164 Like the NHA sites that would follow, the I&M integrates “environmental objectives with community and economic objectives at regional or landscape scales,” and is managed “through partnership structures, usually a federally authorized commission or nonprofit organization, where the NPS participates as a partner in the planning and implementation process.”165 A recent study of the efficacy of NHAs by Laven, et al. found that because “NHAs tend to be characterized by highly dynamic and unpredictable environments,” their greatest benefit is in their ability “to engage, activate, and manage networks” of stakeholders, land-owners, and actors.166

3.6 Comprehensive Legal Structures

Transboundary cooperation occurs most successfully when the legal structures for protection exist at multiple levels. A consistent legal framework at the national level, such as the structure provided by the IUCN’s Protected Areas, the US National Heritage Area, or the Landscape designations as defined by the European Landscape Convention, ensures that shared heritage is protected adequately and evenly at the national level. Compacts or MoUs can therefore be

164 Ibid., 57.
165 Laven et al., “From Partnerships to Networks,” 272.
166 Ibid., 287.
written using a similar legal language to define what and how they are protected. It is also useful to have an international compact that requires cooperation, such as the UNECE Water Convention. This requires that the nations engage one another to manage heritage cooperatively.

Both Montenegro and Albania have signed and ratified the European Landscape Convention and therefore have or are working towards adoption of protected landscape designation in their legal systems. However, Montenegro has not signed on to the UNECE Water Convention, and therefore is not legally required to enter into a joint water agreement for Skadar Lake, although they are in practice.
CHAPTER 4: THE HISTORIC CASE, THE ADIRONDACK PARK

Aerial imagery of the State of New York shows a large, green, undeveloped mass in the north central portion of the State. This area, nearly 20% percent of the land in the State, is demarcated on many State maps with a blue line marking the border of the Adirondack Park.\textsuperscript{167} The Park was created in 1894, and is today managed by the New York Adirondack Park Agency (APA). The APA manages the entire park and is tasked with the “development of long-range land use plans for both public and private lands within the Park.”\textsuperscript{168} The State only owns 43% of the land within the park and there are an estimated 130,000 permanent residents inside the “blue line,” boundary of the park.\textsuperscript{169} Private and public land is interspersed throughout the park, with little Euclidian spatial order. The park constitutes all of two counties, considerable portions of six counties, and small parts of four more counties, including dozens of incorporated villages and hamlets, in a state with a strong home rule constitution, which grants local authorities the right to govern their own land use and development.

The APA is extraordinary because it controls land, both public and private, within scores of local jurisdictions. Although the APA was only established in 1971, the idea that a non political, quasi-governmental agency should have power to manage land that is owned by numerous private owners and the public, in multiple jurisdictions, is a model that successfully allows for growth and development and preserves and conserves critical habitat, views, and culture. The creation of the APA grew out of nearly 100 years of failed land and heritage management attempts, and so the Adirondack Park offers an example of 100 years of failed regional and multi-jurisdictional heritage planning, and forty years of success.

\textsuperscript{167} “US Census Table 358. Land and Water Area of States and Other Entities”; “Adirondack Park Land Use Area Statistics - August 2011.”
\textsuperscript{168} “Adirondack Park Agency.”
\textsuperscript{169} “Adirondack Park Land Use Area Statistics - August 2011.”
The Adirondack Park is currently the largest park and the largest state-level protected area in the lower forty-eight states, and is the largest National Historic Landmark. The park is 5,800,000 acres,\textsuperscript{170} and as any New York school child can attest, is an area greater than Yellowstone (2,219,791 acres), Yosemite (761,268 acres), Grand Canyon (1,217,403 acres), Glacier (1,013,322 acres), and Great Smoky Mountains (521,086 acres) National Parks combined. More importantly it is a large land area in a heavily populated state (although most of the park land is not suitable for heavy development), and its history of management of private and public land offers lessons for other large developable land management areas. Kevin Lynch, in \textit{Managing the Sense of a Region}, sites the influence of the Adirondack Park, writing:\textsuperscript{171}

The Adirondack Park was designed as a playground of camps—wilderness to be in to vacation in. The land speculation may have been unkosher, but the vision, to have a close wilderness—a New York wilderness, was genuine. As was the goal to limit development to a sustainable level. And it has succeeded—Lake Placid, Whiteface but also hundreds of thousands of acres of wilderness—public and private, with a singular preservation plan and goal.

\textsuperscript{170} Ibid.
\textsuperscript{171} Lynch, \textit{Managing the Sense of a Region}.
4.1 History of the ADK

The history of the Adirondack Park is important in understanding contemporary heritage management preservation efforts, partly because of the history of the park is parallel to the history of heritage management. The land that makes up the current Adirondack Park has been managed since 1771, when land speculators, led by British loyalists Joseph Totten and Stephen Crossfield bought what amounted to 1.15 million acres of land from the Mohawk and Caughnawaga tribes.\textsuperscript{172} For the next two hundred years, the land was managed by various parties, for various interests, and so the Park is now a historical laboratory of large scale land management.

\textsuperscript{172} Graham Jr., The Adirondack Park: A Political History by Frank Graham Jr., 5.
In 1779, the New York State legislature declared that lands formerly belonging to the Crown and loyalists were now “forever after to be vested to the people of this state.”\textsuperscript{173} Five years later, in order to raise capital the State sought to sell these “forever” lands, and much of the Adirondack lands were eventually sold to a land spectator, Alexander McComb, with the hopes to gain from the timber and water resources on the land. According to legend, Theophilus Anthony, one of the original patriot investors built the first “summer camp on a pond near Long Lake in 1786, thus becoming the forerunner of the million ‘rusticators’ in the Adirondacks,” who built palatial summer homes on the scores of lakes throughout the Adirondack forests.\textsuperscript{174}

For nearly the next 80 years, the Adirondacks remained in the hands of the original speculators, or a small group of loggers who bought the rights from those speculators. There was some interest in exploration by wealthy sportsmen and eventually the Romantics, but it was the 1869 publication of William H.H. Murray’s *Adventures in the Wilderness*, that opened the “great flood of men, women, and children.”\textsuperscript{175} In his history of the Adirondack Park, Frank Graham suggests that after the Civil War, Americans, but especially wealthy New Yorkers and Bostonians were looking for new sources of pleasure and that Murray’s book perfectly explained the “well-delineated ambience of the wilderness.”\textsuperscript{176} More importantly, Murray’s book provided prices and directions for travel, including the easiest route and best guides, and a section on “what clothes a woman should wear in the wilderness.”\textsuperscript{177} Murray suggested that the Adirondacks offered a cure from miasma and consumption, and although those who heeded his advice were later known as “Murray’s Fools,” for so heartily following his directions, his followers were the “vanguard of a new movement. The public’s appetite had been whetted and the Adirondacks soon became a

\begin{footnotes}
\footnotetext[173]{Ibid., 6.}
\footnotetext[174]{Ibid.}
\footnotetext[175]{Ibid., 25.}
\footnotetext[176]{Ibid., 26.}
\footnotetext[177]{Ibid., 27.}
\end{footnotes}
fashionable mecca of city people who wanted to get away from it all once August rolled around.”178 Like so many other heritage areas, the interest from tourists predated a comprehensive plan for managing and preserving the place.

Murray’s publication corresponded with the construction of the Adirondack Railroad from Saratoga to North Creek in 1871, and the Delaware and Hudson extension from Plattsburgh to Point of the Rocks in 1868, and to AuSable Forks in 1874.179 According to Theodore Roosevelt’s diary, his family took the same journey as typical well-to-do families, taking the train to Glens Falls, and then “stage and steamer up Lake George and Champlain to Plattsburgh, and [then] train and stage to Paul Smith’s hotel on St. Regis Lake.”180 As with so many other formerly pristine lands or critical cultural areas, the improvement of infrastructure in order to bring access to more people, also brought unrestricted tourism and the threat of detrimental development.

Seeking a more permanent way to summer in the Adirondacks, these wealthy families began to build their own camps, rather than rely on hotels to provide accommodations.181 So rather than concentrated development at a handful of locations, wealthy families were now buying huge tracts of land and (with the land) the right to develop it how they pleased. These camps began literally as a series of hugely elaborate tents, but over time more and more permanent structures were built to store goods and support these families. These camps are not to be confused with any sort

178 Ibid., 30.
179 Ibid., 32.
180 Ibid.
181 The term camp is still used colloquially in Upstate New York to describe the site of one’s vacation home or rental in the Adirondacks. It is a noun, used for example, in the sentence, “My family and I are going up to camp this weekend.” The family is not engaging in the act of camping, but instead staying in a cabin in the Adirondacks.
of contemporary camping practices, or seen as ‘roughing it.’ Graham quotes an account of the Anson Phelps Stoke family and the goods they brought into “the woods in 1883.”  

Mr. Stokes chartered a ‘parlor horse car’ for a hundred dollars to take their belongings by rail from Forty-second Street to AuSable Forks. The car carries, among other things: ‘Anson Philip Stokes, wife, seven children, one niece, about ten servants, Miss Rondell, one coachman, three horses, two dogs, once carriage, five large boxes of tents, three cases of wine, two packages of stove pipes, one bale china, one iron pot, four washstands, one barrel of hardwood, four bundles of poles, seventeen cots and seventeen mattresses, four canvas packages, one buckboard, five barrels, one half barrel, two tubs of butter, one bag coffee, one chest tea, one crate china, twelve rugs, four milk cans, two drawing boards, twenty-five trunks, thirteen small boxes, one boat, one hamper.’

The preceding description is intended to be slightly amusing, but also illustrative of the luxury of summers in the Adirondacks. It also highlights the need for permanent facilities. Mr. Stokes eventually purchased an island for his family, and according to Graham, slowly constructed a small village, of food storage facilities, winter storage facilities for some goods, and later cabins for family members, servants, dining, and entertainment. These were followed by tennis courts, boat houses, golf-courses, workshops, and eventually massive rusticated lodges.

Along with the rusticators and the camps, came the loggers, tanners, farmers, and the charcoal industry (for foundries) all seeking the once abundant forests. Many of the loggers bought “the land cheap from the original speculators, they logged it, then let the ruins revert to the state for taxes.” In addition, by the 1870’s estimates suggest that up to 30,000 tourists were coming each summer, and that clear-cutting was abound. The tanning industry exhausted nearly all of the available hemlock in the Adirondacks, forcing an industry collapse. George Perkins Marsh, author of  *Man and Nature* which explains the need for protecting forests and watersheds around the world, wrote an editorial in *The New York Times* on August 9, 1864 expressing the need for

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182 Graham Jr., *The Adirondack Park: A Political History* by Frank Graham Jr., 37.
183 Ibid., 38.
184 Ibid., 15.
protection closer to home, in part to protect the natural resources for future exploitation. Called a “seminal document in the history of the region,” Marsh’s editorial states that the Adirondacks could become to the nation, what Central Park was to New York: 185

...The furnaces of our capitalists will line its valleys and create new fortunes to swell the aggregate of our wealth, while the hunting-lodges of our citizens will adorn its more remote mountainsides and the wooded islands of its delighted lakes. It will become to our whole community, on an ample scale, what Central Park is on a limited one. We shall sleep tonight on one of the magnificent steamers of the People’s Line, ride a few cool hours in the morning by rail, and, if we choose, spend the afternoon in a solitude almost as complete as when the Deerslayer stalked his game in its fastness and unconsciously founded a school of romance equally true to sentiment with that of feudal ages.

And here we venture a suggestion to those of our citizens who desire to advance civilization by combining taste with luxury in their expenditures... let them form combinations, and seizing upon the choicest of the Adirondack Mountains before they are despoiled of their forests, make of them grand parks, owned in common and thinly dotted with hunting seats where, at little cost, they can enjoy equal amplitude and privacy of sporting, riding, and driving whenever they are able, for a few days or weeks, to seek the country in pursuit of health or pleasure. In spite of all the din and dust of the furnaces and foundries, the Adirondacks, thus husbanded, will furnish abundant seclusion for all time to come; and will admirably realize the true union which should always exist between utility and enjoyment.

Marsh’s editorial explains the perils of creating a park in the Adirondacks. The natural wealth means contradictory things for different landowners. Hunting camps competed with loggers to maintain the landscape for their specific uses.

4.3 A Park

The exploitation of natural resources along with a popular belief in the healing power of fresh air parklands, sped up the idea of the need for an Adirondack Park in the latter half of the nineteenth century. In 1872, the New York State Assembly appointed “Commisioners of Park,” with the specific intention of acquiring land in the northern part of the state and turning them into a park. 186 Land was slowly acquired by the State, but with little surveying capacity, it had little

185 Marsh, “Adirondack.”
186 Graham Jr., The Adirondack Park: A Political History by Frank Graham Jr., 76.
protection, and because so much of the park was already in private hands, it had little protection from logging, burning, or other activities on neighboring parcels. In May 15, 1885, Governor Hill signed legislation that established a State Forest Preserve and a permanent three member Forest Commission. The law also provided for a forest warden and forest inspectors, who were tasked with protecting the state-owned land including preventing activities on private neighboring properties from negatively affecting the state owned land.\textsuperscript{187} The law has become known as the “Forever Wild” law because of the language in Section 8 which states that, “the lands now or hereafter constituting the Forest Preserve shall be forever kept as wild forest lands. They shall not be sold, nor shall they be leased or taken by any person or corporation public or private.”\textsuperscript{188} In May of 1892, Governor Flower signed the Adirondack Park Enabling Act, authorizing the creation of a park of 2,807,7600 acres contained within a blue line, only 551,093 acres being publically owned.

\section*{4.4 100 Years of Controversy}

For nearly the next 100 years, the idea of an Adirondack Park and the organizational structure of its managing body would be nearly continuously contested. From the beginning, the idea that the State should own so much of the land in the region was fiercely contested. Entire counties were included in the boundary, and looked to lose all tax base, population, future development, and therefore governmental purpose. In response, in 1886, the State passed legislation that is still in effect today, and which mandates that all the land in the Preserve be “assessed and taxed at a like valuation and at a like rate as those which similar lands of individuals within such counties are assessed and taxed.”\textsuperscript{189} This taxing structure allows the towns and counties to gain tax revenue

\begin{footnotes}
\item[187] Ibid., 106.
\item[188] Ibid.
\item[189] Ibid., 107.
\end{footnotes}
from the State in order to adequately provide services and government to communities that are intricately tied to the park land.

Also controversial was the make-up of the Forest Commission and its ability to grant logging rights. The addition of logging interests to the Commission resulted in the opening of thousands of acres for logging in the late nineteenth century. As timber rights were not directly addressed in the original legislation, the Commission became a highly sought after position for loggers hoping to gain rights to manage the timber on State land. Timber rights could be sold by the State, creating a profitable entity out of the Preserve, and even under certain legislation, allowing for the purchase of more land for the State to enlarge the Preserve. Additionally, timber thieves simply took what was not granted to them from State lands due to the impossibility of policing such a huge area of wilderness, and sometimes because of corrupt police and managers. Residents, uninterested in supporting a meddling State, did little to help protect the land.

During World War II fears that the United States would be cut off from crucial international mining operations led the National Government to support mineral extraction of “strategic materials” on Forest Preserve land within the park. The easement was extended through 1967, and the mine has polluted the upper Hudson River and the land and waterways around the mines.\textsuperscript{190} As the federal government extended its road network under the Eisenhower System, there were questions over whether there needed to be special standards for the construction of roads through the park, especially the Northway, linking Albany and Montreal.\textsuperscript{191} The “Forever Wild” clause remained in place, but development pressures, on both private and public lands slowly eroded its meaning, leading into the 1967 New York State Constitutional Convention. Parties at the convention thought

\textsuperscript{190} Ibid., 209.
\textsuperscript{191} Ibid., 211–212.
that the constitution needed to be simplified, and that the constitution was no place for language like the "Forever Wild Clause."

In response, a move in the late sixties sought to turn the Adirondack Park into a National Park, giving it the protections of federal park ownership. Governor Nelson Rockefeller proposed that State land be transferred to the Federal government for the majority of the park, and that over the next few years the majority of the remaining private land would be purchased. Some small land holdings could remain in places like Lake Placid, but they were not to exceed three acres. Rockefeller proposed that this was ultimately the only solution for preserving the natural beauty of the Park.¹⁹²

This set of concerns over preserving a place “Forever Wild,” mirror problems of management today, both regarding archeological sites and other heritage areas where a need for a strong, diverse economy is often in direct opposition to the restriction of development to manage the sites. A lack of advocacy for local residents and other stakeholders coupled with a lack of education on cultural significance creates nearly ruinous effects in some places, where heritage is destroyed to promote cultural tourism, for example. Unstable or corrupt politics exacerbates the problem, as does and cultural and natural resource because policing of rural and large sites is often extremely costly for little perceived value to society. And finally, as with the Adirondacks, collusion with political actors is not unheard of. Significant work has been done in the past twenty years in incorporating values-based preservation into cultural heritage management in order to create

¹⁹² Ibid., 222.
advocates out of local residents and to make sure that the management plans of sites reflects local citizens’ needs to continue to use the site.\textsuperscript{193}

In the case of the Adirondack Park, it was the unilateral move by the State government to take the rights of habitation away from the 130,000 residents of the park that finally unified them in defense of their park. Lumberman, seasonal visitors, residents, sportsman, landowners, and NGOs united in opposition to a plan to take away their use of the park. In late 1967, Rockefeller, recognizing his lack of support for a National Park, appointed a “distinguished group of New Yorkers” to finally face the management of the park.\textsuperscript{194} In December of 1970, the Temporary Study Commission on the Future of the Adirondacks submitted its final report to the Governor with 181 recommendations.\textsuperscript{195} “By far the commission’s most notable point was its first recommendation: ‘An independent, bipartisan Adirondack Park Agency should be created by statute with general power over the use of private and public land in the Park.’”\textsuperscript{196} Six months later, the State of New York ultimately created the Adirondack Park Agency (APA) “to manage, with local government help, the issues of land use, both public and private.”\textsuperscript{197}

4.5 An Agency for Heritage

In the United States, a public agency is generally a public organization set up to administer a specific function within government. It operates within all overarching laws, but is able to create rules that affect its administrative realm. For example, within the U.S. Department of Agriculture, the Forest Service is an authority that manages the national forests and grasslands, despite

\textsuperscript{194} Graham Jr., The Adirondack Park: A Political History by Frank Graham Jr., 229.
\textsuperscript{195} Ibid., 240.
\textsuperscript{196} Ibid., 240–241.
\textsuperscript{197} The Commission on the Adirondacks in the Twenty-First Century and Berle, Chairman, The Adirondack Park in the Twenty-First Century, 18.
whatever local jurisdiction the actual property is situated. In the United States, the agency structure is important because of the constitutional division of power, which limits much of the power of the federal government. The National Park Service is also a federal agency, which falls within the U.S. Department of the Interior, and its administrative structure allows it to manage properties in the National Park System.

The APA is different because only 43% of the land within the Park boundary is publically owned, and for the remainder of land within the Park boundary, the APA acts essentially as a zoning entity. Like a local government would do, the APA maintains a park comprehensive plan, including a future land use plan, which gives it the legal zoning authority over the remaining 47% of the land, which is privately held. In actuality, the APA maintains two comprehensive plans, the State Land Master Plan which lays out the management of the State owned land, and the Adirondack Park Land Use and Development Plan (APLUDP) which is for the management of private land. The agency plans for the management of State owned land, the zoning of private land, and regulates development which may affect the Park. The agency is also much larger than a typical local zoning authority, and overlaps with other entities which have zoning authority of the same land, specifically “105 units of town and village governments and 12 counties.” The APA designates these areas as “Hamlet,” and places no restriction on their development, seceding the zoning power to the local government.

4.6 Public Land

Most of the land that is publicly held, is owned directly by the State of New York as a New York State Forest Preserve. This land is managed by the State Land Master Plan, which designates

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198 Ibid., 20.
seven classifications for management: Wilderness; Primitive; Canoe; Wild Forest; Intensive Use; Wild, Scenic, and Recreational Rivers; and Travel Corridors. The Master Plan states:

A wilderness area, in contrast with those areas where man and his own works dominate the landscape, is an area where the earth and its community of life are untrammeled by man - where man himself is a visitor who does not remain. A wilderness area is further defined to mean an area of state land or water having a primeval character, without significant improvements or permanent human habitation, which is protected and managed so as to preserve, enhance and restore, where necessary, its natural conditions, and which

(1) generally appears to have been affected primarily by the forces of nature, with the imprint of man’s work substantially unnoticeable;

(2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation;

(3) has at least ten thousand acres of land and water or is of sufficient size and character as to make practicable its preservation and use in an unimpaired condition; and

(4) may also contain ecological, geological or other features of scientific, educational, scenic or historical value.

Public lands are owned by the State of New York, and are managed, along with most other public forest lands and recreation areas in New York, by the State Department of Environmental Conservation (DEC). Under this arrangement, the public land is no different that State or National Parks. The use, policing, and management of the land is all dealt with by a state conservation department. However, the DEC must still manage the land in compliance with the State Land Master Plan, which is imposed on it.

4.7 Private Land

Private land within the park is managed depending on its land classification, as part of the Adirondack Park Land Use and Development Plan (APLUDP), which is in essence, a Future Land Use Plan. Section 801 of the Adirondack Park Agency Act states that "the basic purpose of this article

is to insure optimum overall conservation, protection, preservation, development and use of the unique scenic, historic, ecological and natural resources of the Adirondack Park,” and so the APLUDP designates areas where development of private land would not negatively affect these resources. It established six classifications of development areas: Hamlet; Moderate intensity use; Low intensity use; Rural use; Resource management; and Industrial use. Each depend on the following factors, as defined by the Adirondack Park Agency’s Land Use Area Classifications:

- existing land use and population growth patterns;
- physical limitations related to soils, slopes and elevations;
- unique features such as gorges and waterfalls;
- biological considerations;
- public considerations

The APLUDP uses the same legal structure and precedents as those plans that result out of non-conservation based, municipal Land Use and Master Plans, however, rather than planning for growth, the APLUDP plans for conservation. Because it comes out of a Master Planning and mapping process, the control is as legal as other zoning policies throughout the United States. Similarly to zoning, “the intended purpose of the classification system is to channel growth into the areas where it can best be supported and to minimize the spread of development in areas less suited to sustain such growth.” Rather than preventing any growth, it allows areas of historic development to continue to develop with little input from the Agency, and preserves undeveloped lands with the maximum input and control of the agency.

These classifications are purely land use controls and do not control historic or new structures, especially within the Hamlet classification, which is the most amenable to development, and may have additional local restrictions if it is within an incorporated jurisdiction. The Adirondack Park

200 Ibid., 1.
201 “Adirondack Park Agency Land Use Area Classification.”
202 Ibid.
Agency Act allows any local government within the Park boundary to develop its own local land use legislation. If the Agency approves the plan, some permitting authority may transfer from the Agency to the local government's jurisdiction. To date, sixteen towns have approved local land use programs, including the resort town of Lake George. To illustrate the flexibility of these APLUDP, Lake George has strip malls, motels, and a Six Flags Amusement Park.

Like a zoning review process, control comes from the requirement for review and permitting prior to new development. In his analysis of the APLUDP contemporary with its establishment, David Vrooman wrote that “under this system all development activity in the Park is reviewed at some level. Land-use and development activities are regulated by the local government unless the local government has not adopted an approved local land use program or unless the proposed project is of regional significance.”

**Private Land Classification Definitions**

The following are the land use area classifications of the APLUDP, and a general description of their purpose:

**HAMLET**
These are the growth and service centers of the Park where the Agency encourages development. Intentionally, the Agency has very limited permit requirements in hamlet areas. Activities there requiring an Agency permit are erecting buildings or structures over 40 feet in height, projects involving more than 100 lots, sites or units, projects involving wetlands, airports, watershed management projects, and certain expansions of buildings and uses. Hamlet boundaries usually go well beyond established settlements to provide room for future expansion.

**MODERATE INTENSITY USE**
Most uses are permitted; relatively concentrated residential development is most appropriate.

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203 Ibid.
204 Vrooman, “Regional Land Use Controls in the Adirondack Park,” 99.
205 “Adirondack Park Agency Land Use Area Classification.”
LOW INTENSITY USE
Most uses are permitted; residential development at a lower intensity than hamlet or moderate intensity is appropriate.

RURAL USE
Most uses are permitted; residential uses and reduced intensity development that preserves rural character is most suitable.

RESOURCE MANAGEMENT
Most development activities in resource management areas will require an Agency permit; compatible uses include residential uses, agriculture, and forestry. Special care is taken to protect the natural open space character of these lands.

INDUSTRIAL USE
This is where industrial uses exist or have existed, and areas which may be suitable for future industrial development. Industrial and commercial uses are also allowed in other land use area classifications.

The land classifications in the APLUDP are “designated to channel development into areas where it is best supported and to control the overall density of development. While very few types of activities are prohibited by the Act, some activities are prohibited in certain land use areas.”206

<table>
<thead>
<tr>
<th>Land Use Area</th>
<th>Color on Map</th>
<th>Avg. # Principal Bldgs. (per sq. mile)</th>
<th>Avg. Lot Size (acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hamlet</td>
<td>brown</td>
<td>no limit</td>
<td>none</td>
</tr>
<tr>
<td>Moderate Intensity Use</td>
<td>red</td>
<td>500</td>
<td>1.3</td>
</tr>
<tr>
<td>Low Intensity Use</td>
<td>orange</td>
<td>200</td>
<td>3.2</td>
</tr>
<tr>
<td>Rural Use</td>
<td>yellow</td>
<td>75</td>
<td>8.5</td>
</tr>
<tr>
<td>Resource Management</td>
<td>green</td>
<td>15</td>
<td>42.7</td>
</tr>
<tr>
<td>Industrial Use</td>
<td>purple</td>
<td>no limit</td>
<td>none</td>
</tr>
</tbody>
</table>

206 Ibid.
Figure 13 (above) & 14 (below): 2009 APLUDP Map and Detail Title Block. Adirondack Park Agency.
4.8 Could it work in other places?

The Adirondack Park is a legacy of the American Romantic sentiment at the end of the nineteenth century, and the Adirondack Park Agency, of the Modernist American sentiment of the middle of the twentieth century. The entire governing structure of the APA is certainly a legacy of its place and time. But there are crucial aspects of its structure that can be reproduced under many different governmental situations. In essence, the creation of the APA was the creation of a separate, regional jurisdiction with the power to regulate its land-use, but still existing in the hierarchy of national, New York State, and local laws and regulations.

The primary lesson from the Adirondack Park is that there is one Agency in charge of planning for the conservation and development of the entire heritage area. Having the unified plan with legal authority, that applies to public and private land, allows for development that supports the heritage, and allows the population that was already living in the area, to continue their livelihood and support and continue the cultural heritage. At the same time, the planning zone known as Hamlet reduces the APA’s involvement in small scale development that is better managed by local governments. There is still the provision that projects of regional or large-scale interest must be reviewed by the APA, but there is considerable allowance for small scale, local impact development to continue to be addressed by local, elected bodies to the degree at which those
citizens agree. The strong delineation between these areas who development will strongly affect
the Adirondack Park, and those which will not, allows for maximum flexibility

Secondarily, the APA is an entirely localized agency. Unlike the National Park Service or other
Federal agencies, the APA is only concerned with the Adirondack Park. This undoubtedly creates
some redundancies in State land management, but it is extremely efficient in responding to
localized problems and nuances.

Finally, the APA is not the manager of the public lands. The New York State Department of
Environmental Conservation manages all of the State-owned land in New York, including the State-
owned land in the Adirondack Park. This allows the APA to focus on planning. The APA is not
involved in ownership of land, and therefore can maintain clearer interests in managing
development throughout ALL of the Park, on all types of land.

The Adirondack Park offers one of the best management examples for the Cetinje region. Rather
than a state agency, a national level agency in Montenegro could be designed to facilitate the
creation of a Master Plan and Land Use Plan for the region. The plans would be created
according to current best practice standards, which would demand significant stakeholder
participation, ranging from the international heritage community, to local farmers to the tourism
industry. The land use plan would incorporate the master plans of the national park, and the
conservation plans relating to the management of the Skadar Lake Basin. The land use plan would
have full development controls over the Skadar Lake National Park and the Lovčen National Park,
although their ownership, operations, and heritage management structures would remain
unchanged. The areas not currently within National Park boundaries would be zoned according
to the sensitivity to and suitability for development, along with current and historical land use.
Restrictive land use, managed by the Agency would be imposed on undeveloped rural lands and
sensitive habitats and natural lands. Agricultural lands, especially those existing on the southern
shore of Skadar Lake could be zoned with less restrictions and with some room for low impact
agricultural and agri-touristic development. The villages, towns, and the City of Cetinje would be zoned for development, with their direct land use controls ceded to the Cetinje municipality, pending the creation of an acceptable master plan for each area. The separation of land use control is crucial because the Agency would be primarily concerned with conservation, while the municipal land use controls more concerned with development, with all of the control cohesively planned by one Master Plan.
CHAPTER 5: THE ROLE OF NGOS: THE SEE HERITAGE NETWORK

Southeast Europe has in place some of the most innovative regional cooperation agreements and plans in the cultural heritage field. Some of the multi-national cooperation comes from the fact that many of the independent government heritage agencies were, less than 20 years ago, divisions of a single national, Yugoslav heritage agency. Some of the cooperation also comes from the University in Belgrade, which as the large, shared language institution, trains practitioners from throughout the region. And some comes from a need of smaller, poorer nations, with shared heritage to share capacity and knowledge, and outside European pressures to cooperate post-conflict, especially regarding the Stability Pact for Southeast Europe.207 Nevertheless, the level of cooperation and knowledge sharing is often stifled by new national governments who wish to promote their new independence and ethic history over the regional narrative. The role of creating connections between nations who have shared culture and borders for thousands of years has fallen on a small group of non-governmental organizations (NGOs), who have since 2006, been under a joint umbrella organization called the Southeast European (SEE) Heritage Network.

Non-governmental organizations are an organization structure generally defined as being “independent from the direct control of any government. In addition, there are three other generally accepted characteristics that exclude particular types of bodies from consideration. An NGO will not be constituted as a political party; it will be non-profit-making and it will be not be a criminal group, in particular it will be non-violent.”208 NGOs vary significantly, but can be divided by being international, national, or local, based on their intended sphere of influence.

207 “The Stability Pact for Southeastern Europe was launched in 1999 as the first comprehensive conflict prevention strategy of the international community, aimed at strengthening the efforts of the countries of Southeastern Europe in fostering peace, democracy, respect for human rights and economic prosperity. The Stability Pact provided a framework to stimulate regional co-operation and expedite integration into European and Euro-Atlantic structures.” It was superseded by the Regional Cooperation Council. From, “Stability Pact: Home Page.”

208 Willetts, What Is a Non-Governmental Organization?
Many countries, including the United States, differentiate NGOs from other organizations and from each other through their taxing structures. Because NGOs are generally not-for-profit organizations, they may pay lower tax rates, and certain NGOs that engage in lobbying, for example, are classified differently.

Southeast European Heritage (SEE) is the network group of the NGOs working in Albania, Serbia, Montenegro, Bosnia and Herzegovina, Kosovo, FYR Macedonia, Croatia, and Romania. It is organized with support from Cultural Heritage without Borders and the Swedish International Development Cooperation Agency, and often includes participants from Bulgaria, Slovenia, and Greece. Its aim is to unite parties, especially local NGOs, interested in expanding “their activity in the field of cultural heritage beyond the borders of their countries and [contributing] to enhancing the common heritage of Southeast Europe.”

By creating a network for NGO’s, SEE supports small, localized heritage management along with regional shared knowledge, capacity, and influence.

5.1 Why NON governmental?

Most nations have some sort of heritage management division, along with strong institutional ties to State museums, academies, and universities. But the involvement of civil society, through non-governmental organizations is crucial as well, and is often under supported by governments. In their 2008 report from Skopje, the SEE Heritage Network writes that governments are focused on managing heritage through their internal institutions. “When it comes to cultural heritage conservation, restoration, promotion and sustainable usage, the governments in the region are focused on the public cultural institutions (museums, institutes, etc.) and their work.” However, the SEE statement continues that these institutions are often inadequate to fully protect culture, and the

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209 SEE Heritage Network Meeting & Workshop. Cultural Landscapes and the Implementation of the European Landscape Convention in Southeast Europe - the Role of NGOs, 8.
210 Ivanova and Stamboldzioska, Cultural Heritage and Its Misuse in Political and Ideological Causes, 11.
focus on public institutions excludes a myriad of other, important stakeholders, stating that, “they are rather closed than open towards the participation of NGOs, inhabitants and even business in the area of promotion and protection of the cultural heritage. Governmental institutions do not envisage the importance of including other stakeholders except cultural institutions in the efforts to preserve and to promote the sustainable usage and development of the cultural heritage.” 211 In his research on values based heritage preservation, writes that, “it is axiomatic that historic preservation reflects, in some manner, its society in the choices of what gets preserved, how it is preserved and interpreted, and who makes the decisions.” 212 If the national government is making these choices through its institutions, then other narratives are often excluded. It is the role of the NGOs to fill these gaps, and to provide an additional functional, economical, and sometimes political voice.

Many factors create a need for NGOs to support government institutions. Southeast Europe has been an exceptional place for the rise of NGOs because following the fall of the central Yugoslav government the political realm was fractured, sometimes in conflict, and often in flux. At the same time, the legacy of Yugoslav education had left a strong group of capable and committed heritage preservationists, architects, and spatial planners. In Montenegro, for example, several strong NGOs have been formed during the creation of an independent state from Serbia, beginning in 2006, in a period when the government ministry for cultural has been especially weak. Aleksandra Kapetanovic, from the NGO EXPEDITIO, explained in a presentation in 2009, that the transitional, weak State coupled with investment pressures, uncontrolled urbanization, and a lack of integration of heritage and strategic and spatial planning, led to a lack of a national

211 Ibid.
strategy for heritage, and ultimately an incoherent and ineffective conservation system.” The NGO group MANS (Mreza za Afirmaciju NVO Sektera: Network for the Affirmation of NGO Sector), has worked to spotlight corruption, especially in spatial planning and development, and has led the way for other NGOs, especially EXPEDITIO, to open dialogue between local communities and the government, to create new spatial and strategic plans that place a strong value on cultural heritage. Kapetanovic explains that the heritage NGOs that currently exist in Montenegro are a variety of smaller, local NGOs and professional groups, that collectively work not just on the preservation and promotion of heritage, but also on fostering tradition and educating communities about their heritage. She highlights NOTAR, working in Kotor, in southern Montenegro. NOTAR works to assemble the significant amount of knowledge on Kotor that is held by State institutions, religious institutions, and private archives. It publishes, digitizes, and publically presents theses resources as a way to engage the community in their history and as a way to publically archive the knowledge.

Additionally, her group, EXPEDITIO has a mission to “encourage sustainable spatial development in Montenegro and [the entire] SEE region through activity in the fields of sustainable architecture, cultural heritage, urban planning and through projects that encourage overall development of the civil society.” EXPEDITIO focuses on projects which engage civil society in the role of sustainable development, with a strong preference towards projects that also inherently promote cultural or historical values of the region.

In Macedonia, Professor Lazar Sumanov, director of ICOMOS Macedonia, explains a similar situation where the National government offers some protection, especially through its “Law for

213 Kapetanovic, “Activites of Non-governmental Organizations in the Field of Cultural Heritage in Montenegro: Examples of NOTAR & EXPIDITIO.”
214 “MANS | Network for Affirmation of NGO Sector.”
215 “Expeditio.”
Culture (1999) [and] Cultural Heritage Protection Law (2005)," and through institutional network on the national and local level and some budgetary support of activities. But it is ICOMOS Macedonia and local and national NGOs that are able to overcome obstacles created by Macedonia's transition period out of Yugoslavia and into the European Union. These NGOs can especially bypass the "problem of the institutional and private donations, [and the] restriction of new institutional employments" which has existed since independence from Yugoslavia. The NGOs are able to administer financial support from the State to necessary activities in a transparent manner, and to collect and administer funds from non-national groups, such as the Council of Europe and the World Bank. Additionally, in a political transitional period, when multi-lateral ties may be strained, NGOs can importantly act as bridges to other nations to administer grants and manage shared heritage. Professor Sumanov states that NGOs are especially adept at providing this cooperative framework in the areas of "inventarisation/documentation, education and transfer of knowledge, risk preparedness (natural and man-made disasters), cultural itineraries, rural cultural tourism," and especially in cross border cooperation.

Governments, especially national governments are limited in their capacity to completely represent heritage needs because governments inherently work within their boundaries and within state and nationalistic identities. It is not the role of a government to necessarily promote any development or planning beyond its borders and so it is not particularly fruitful to critique governments for not adequately addressing transboundary heritage needs. Additionally, governments face tighter and tighter budgets, and so limited funding of cultural heritage, even that heritage that fits strict and limited narratives, is understandable. Finally, while the government's role is to promote the public good, this must also include promotion of growth and

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216 Sumanov, “Role of Experts and National and International NGO’s for Cultural Heritage Protection in the Reginal Cross-Border Cooperation.”
217 Ibid.
218 Ibid.
development which may be in opposition to heritage management needs. It must be the realm of the civil society to promote narratives that do not fit within strict governmental identities. However, civil society is often excluded because it is disjointed or fairly small, and therefore, in Southeast Europe, the importance of the SEE Heritage Network is to promote civil society and NGOs, and provide a louder voice. In a region whose very name, Balkan, has come to represent “disjointed,” the role of civil society, and especially the SEE Heritage Network is crucial to link capacity, knowledge, and shared culture.

Non-governmental organizations often have more capacity to raise money or accept money with greater transparency. Many taxing authorities, including the United States, require significant oversight of funding for an organization to maintain its tax-exempt status. Because of these laws, NGOs can act as far more transparent and less corrupt collectors of grants and other funding, when the local or even national government is either seen as corrupt, or incapable of handling money. Additionally, established NGO networks provide more credibility to their members, by vetting the member NGOs, and by institutionally creating networks of colleagues and professionals. A small NGO may have little world-wide credibility, but its strong ties to established groups, such as the SEE network, create a sense of security. Eman Assi writes, for example, about the reconstruction of several sites in Palestine, and notes that the World Bank, although happy to provide financial support, insisted that their support be channeled through existing NGOs, rather than through a politically unstable State. \(^{219}\) Another example, in the United States’ city of Newburgh, in the State of New York, funders were happy to support the redevelopment of a historic property owned by the City, as long as the City maintained no financial ties to the property. The City of Newburgh has a history of losing or mismanaging grant money. An NGO, founded by community leaders and led by a trusted, non-government related

\(^{219}\) Assi, Cultural Heritage and Sustainable Development: The Role of Local NGOS in Rehabilitation of Historic Cities in Palestine, 8–9.
director, was leased the property for 99 years from the City. The NGO was then able to apply for and collect grants as a registered, tax-exempt group. The property is still owned by the City and its citizens, but the NGO structure allows for its rehabilitation and management to be completely divorced from the government and its (real or perceived) fiscal problems.220

It is also important to note however, that NGOs in their very definition, operate outside of governmental regulation, and in order to raise their own operating costs, can become as egregious in their disconnection with the community as traditional institutions. Calame and Sechler write that preservation is often, “operating from the unimpeachable but traditionally weak bastion of nonprofit institutions,” which “has provided boutique services that generate enormous profits for the tourism industry, sometimes dwarfing their own returns along with the attendant benefits to the constituent communities tied to their projects.”221 They argue that NGOs and heritage managers should be working on creating social development programs in heritage areas, rather than bending for the biggest pockets (often foreign tourism) or bowing to the call that preservation is simply the expensive, unnecessary option.222

5.2 SEE Heritage Network

The goal of the SEE Heritage Network is to build capacity of heritage managers, but to also expand the perceptions of Southeast Europe to become a “region where people cooperate, understand and respect each other on the basis of their cultural differences.”223 This model is directly linked to Calame and Sechler’s idea of social development. By recreating the idea of a

220 The Newburgh Armory Unity Center manages the former Newburgh Armory building, under a 99 year lease from the City of Newburgh, NY.
Southeast Europe, the Balkan synonym for political strife, is replaced by a place of culture, heritage, and capable of developing itself. “Balkanize,” and “Balkanization,” are words now used to describe the division of states along religious or ethnic boundaries throughout the world. Most of the current political boundaries in Southeast Europe are less than twenty years old, and symbolically represent a region that is inherently politically unstable. Additionally, the regional wars after the breakup of Yugoslavia were marked with considerable cultural destruction as a tool of psychological war. The destruction of the old bridge over the Neretva River in Mostar and the National Library in Sarajevo, Bosnia and Herzegovina, the bombing of Dubrovnik, Croatia, and the removal of Orthodox churches in Kosovo, are clear attacks on historical and cultural heritage in order to demoralize the population and promote a new cultural and historical order. The SEE Heritage Network, by adopting the more politically sensitive regional name, and more importantly by promoting shared cooperation and a legacy of shared culture and heritage, aims to create a region that celebrates its bending political boundaries and multi-ethnic heritage. Their membership declaration states:

We, as a network of civil society organizations, believe that cultural, ethnic and religious diversity are valuable resources. Our work aims to protect and promote our common heritage as a tool for sustainable and responsible development.

We recognize cultural heritage as:

- An expression of personal and community identities & differences
- A heritage that we all share
- A means for building social capital & cohesion as well as for fostering people’s good-will & co-operation;
- A unique resource for the sustainable development of our countries.

The role of the civil society is therefore able to transcend the ethnic and religious boundaries that for now, create the political borders of Southeast Europe, allowing citizens and professionals to

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224 Ibid.
share knowledge and support cultural protection throughout the region. Lazar Sumanov, director of ICOMOS Macedonia, observes that a huge benefit in capacity-sharing is the ability to share mistakes. He notes that successes are usually widely shared throughout the heritage community, through articles, journals, papers, and conferences. But, mistakes are often kept internal, even though the mistakes offer a huge opportunity for knowledge sharing. Dr. Sumanov's specialization is in seismic analysis of historic buildings and post-earthquake reconstruction, and he notes that following earthquakes is a crucial time to share mistakes in techniques throughout the region, with other groups whose structures often share similar building materials and techniques and therefore face similar post-disaster needs. Additionally, national ICOMOS offices tend to be severely underfunded, and often rely on part-time or volunteer staffs (in Southeast Europe AND the United States), and so NGO's can often offer crucial funding and staffing/organizational support, such as organizing joint conferences, or publishing reports and data.

5.3 The Dinaric Arc
The SEE Heritage Network is often cited as a key example of influential regional NGO development. When asked who they see as the most successful NGO working in the region, Aleksandra Kapetanovic, director of SEE, cites the influence of the Dinaric Arc Ecoregion (DAE) and the role of World Wildlife Fund (WWF) in its management. She cites their ability to successfully integrate planning and policy into the national governments with which it works.

The DAE is a five-year project (2007-2012) implemented by WWF's Mediterranean Programme and the national nature ministries of Slovenia, Croatia, Bosnia and Herzegovina, Montenegro, and Albania, whose goal is to “create enabling conditions for establishment, maintenance and sustainable financing of representative protected area networks in the Dinaric Arc Ecoregion.”

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225 Sumanov, interview; Lisitzin, interview; “MANS | Network for Affirmation of NGO Sector.”
226 Kapetanovic, interview.
227 “CBD Dinaric Arc - Home.”
The project aims to help the nations fulfill their obligations under the Convention of Biological Diversity Programme of Work on Protected Areas, through the gathering of information, capacity building for local and national authorities, and “political will and buy-in of relevant decision makers and stakeholders.”\textsuperscript{228} The role of WWF is to provide funding and the management structure and to eventually establish an organization that can continue “trans-national links between nature conservation institutions in the ecoregion.”\textsuperscript{229} On May 29, 2008, in Bonn, six government representatives of the Dinaric Arc Ecoregion signed an agreement for joint cooperation on conservation and sustainable development of the Dinaric Arc ecoregion.\textsuperscript{230}

The WWF also manages the long term Dinaric Arc Initiative as a partnership of the NGOs WWF, Euronatur, ECNC (European Centre for Nature Conservation), REC (Regional Environmental Center for Central and Eastern Europe) and CIC (International Council for Game and Wildlife Conservation); along with the United Nations Agencies UNDP, UNESCO, UNEP, FAO (Food and Agriculture Organization of the United Nations); the IUCN; along with the Serb political party SNV (Serb National Council). These groups joined forces and are active in the region with a varied portfolio of projects and initiatives aimed at securing the long-term conservation and sustainable development of this part of Europe. As with other cooperative agreements in regional natural protection, this project began with a directive from the UN, but the addition of the WWF program and funding creates stability and ensures long-term success.

5.4 Is there a role for ICOMOS?

The SEE Heritage Network is importantly a coalition of many NGOs. Each of its member groups work within their particular expertise, almost entirely based in a single country or region. It is their

\textsuperscript{228} Ibid.
\textsuperscript{229} Ibid.
\textsuperscript{230} “BIG WIN for DINARIC ARC: A High-level Event on the Dinaric Arc Ecoregion at the 9th Conference of the Parties to the Convention on Biological Diversity.”
ability to have separate voices, and a unified voice at SEE that allows them the most benefit. With the analysis of the benefits of SEE, it became clear that a parallel group of quasi-governmental organizations—the national ICOMOS committees—were often doing much of the same work, and facing the same problems and issues. Similar to an NGO network, national committees have membership that includes NGOs, but also working professions, and other interested parties.

In larger countries, ICOMOS’s role as a professional organization is clear, but in regions of smaller counties, like Southeast Europe, the role of the national committee is less clear, especially if it takes funding resources from other NGOs, or duplicates the work of neighboring national committees. Playing off the success of the regional SEE Heritage Network, the idea of large regional ICOMOS committees, rather than duplicative national ones is interesting.

When posed with that question, Lazar Sumanov, director of Macedonian ICOMOS succinctly explained the role of the national ICOMOS charter by explaining that there needs to be a strong voice within the current political structure, even if those structures change regularly, or do not reflect historical or cultural boundaries. For example, he explained the role of cooperation between the ICOMOS charter in Macedonia and Greece. The two nations have had extremely strained relations at times, mostly regarding a dispute over Macedonia’s name.\(^{231}\) However, even when there were almost no bilateral relations, the two ICOMOS groups managed to sign an agreement over responsibility for several shared cultural sites. Professor Sumanov believes this was the only bilateral agreement between the two nations during this period. Without single nation ICOMOS charters, cultural heritage would have been somewhat lost within the greater political struggle. Therefore, maintaining a national charter for each current political entity, ensures that at least one group is concerned with all heritage within those specific borders,

\(^{231}\) Greece believes that the region of Macedonia lies entirely within its borders, and therefore the Republic of Macedonia has no right to use the name, nor symbols relating to Macedonian history, including ties to Ancient Macedonia’s most famous citizen, Alexander the Great.
however arbitrary or short lived they may be. As long as ICOMOS maintains high standards of ethics for its charter members, the system should ensure that heritage has a strong voice at every national level.

5.5 The Limitations in Cetinje

NGO’s have had a substantial role in the management of both Cetinje and Skadar Lake. They have advocated for protections, engaged stakeholders, and helped in the creation of management plans, along with funding initiatives. However, their substantial role in the region highlights the greatest weakness of NGOs, that they are non-governmental. NGOs do not have the legal power to make binding management decisions. They must rely on their influence over government to convince those with legal authority to act as cultural stewards. If and when a culturally sympathetic government disappears, the NGO may lose any control.

This weakness can be mitigated when the NGO is also a land-owner, as is the case of land trusts, which are functionally land-owning NGOs whose sole purpose is to own land for conservation. The NGO then gains the right of a land-owner, but of course this right only extends to the boundaries of their property. NGOs can therefore purchase critical properties to control their proper conservation. However, the most effective NGO should aim to works towards the creation of legally binding management plans that can ensure adequate future heritage management, no matter the management.

\[\text{Nuisance laws may allow some control of negative externalities in Common Law countries.}\]
CHAPTER 6: WHAT IF EVERYTHING IS HERITAGE? THE ROLE OF THE EIA

The Heritage Management field is currently in several discussions regarding the future of the field. First, is the notion that everything cannot be designated heritage. There are a finite amount of places and objects that are so representative of a culture that the community must work to protect them. Yet the scale of areas managed as heritage is becoming so huge that everything is becoming de facto heritage. In the United States, National Heritage Areas are now being designated for entire states, protecting the entire states as heritage. The Tennessee Civil War National Heritage Area covers the entire state of Tennessee (although it “is focused on the museums, historic sites, and communities located along eight major mid-19th-century transportation corridors associated with the Civil War and Reconstruction in Tennessee.”)²³³ This movement to designate everything as culturally important creates the need to process potential threats to that heritage at a new scale.

If the aim of Tennessee Civil War designation is to leverage funding and capacity to research, protect, and fund the preservation of multiple degrees of Civil War heritage in the state, from the most vernacular to the most spectacular, it is certainly admirable. But what does this designation actually mean for the State of Tennessee and its heritage? For example, it can be argued that most people think of Tennessee as the home of country music, not the Civil War. Yet the statewide Civil War designation does not explicitly include the Grand Ole Opry, Graceland, or the Ryman Auditorium, and certainly no unregistered vernacular sites related to Country music’s heritage. An overlapping large-scale state-wide heritage area for country music could include the birthplaces of country music artists and small recording studios. It too, could leverage funding for preservation and increase education and awareness relating to the birthplace (home?) of country

²³³ “FAQ.”
music. And lest we forget whiskey; Tennessee is also the home of Tennessee Straight Bourbon Whiskey, and the history of the distilleries and grain producers is no less important than country music or the Civil War. And is Tennessee so culturally important that the entire state should be a designated heritage area that differentiates its cultural heritage as more important than the heritage of neighboring Kentucky, which is of course the home of horse racing and blue grass? The fact is that the Civil war sites in Tennessee, especially vernacular fields and farms, are facing threats. The most obvious way to protect all of those sites in Tennessee is to add them to a list and in the United States, this means a NPS designation.

But if heritage and culture is thought of as part of the environment then a solution to the threat becomes clearer. Environmental protections do not project single natural objects, but consider the natural world as part of a systemic environment. Rivers are not just singular water bodies, but are systems of banks, creeks, and watersheds. The health of the river is dependent on the health of the entire watershed. This is similar for habitats and entire ecosystems. But there is still confusion in how to understand culturesheds other than to designate them as extraordinary or to apply the general “cultural landscape” term to them, which again brings up the question, isn’t everything a cultural landscape?

Krister Olsson, a heritage scholar in Sweden, works in a system that applies the term environment widely, to also include the entire cultural environment. Olsson defines this systemic approach as working to define “the interplay between different parts of the system that characterize the urban landscape as heritage, rather than separate monuments and conservation areas, which have been identified by heritage experts.”

His research therefore brings this built heritage even further into the realm of the natural environment, by considering that heritage works in an interconnected system, just as water and biodiversity does. “Thus, the urban heritage seen as a system encompass

not only defined conservation areas and heritage objects,” he writes, “but also tangible and intangible phenomenon that link various objects and areas together, and, thus, define their value in a broader setting.”

Returning to the case of Skadar Lake, many of the existing protections and designations come from the idea that the important ecological diversity must be protected from negative externalities. Development on the shores of the lake and the watershed needs to be mitigated in order to protect rare species and the fragile ecosystems that may even be on the far side of the lake. These environmental concerns and protections are very common and successful. The impact of a highway and a high-speed train line near the Montenegrin Skadar Lake National Park, were analyzed and deemed too detrimental to the park and the watershed to proceed with as planned. The environmental impact assessment worked for the natural environment, and may be the solution to mitigate externalities to the cultural environment, as it is in the case of the Swedish Environmental Impact Assessment, that Olsson works within.

6.1 Environmental Impact Assessments

The Environmental Impact Assessments (EIA) process is best used as a process to determine potential needed mitigation for development processes. It should not be used as a substitute for heritage or land use planning, and should not been seen as the sole avenue for protecting heritage. It does, however, present an important tool for managing heritage, especially transboundary, or on projects whose effect is far greater than the jurisdiction with permitting rights.

The Environmental Impact Assessment process in Sweden has been widely documented as one of the most comprehensive in the world, and is mandatory for all projects in the country. Katri Lisitzen

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235 Ibid.
describes that the environment includes everything, and that all parts of the environment are also cultural heritage. So in the broadest sense, all of man’s interaction with the environment is culture. Some things are specially protected as particularly important heritage, but when reviewing the potential threats to the environment from a particular project, its overall effect on the people, the animals, the water, the history, and everything else are weighed in opposition to the benefit that the project will bring. She also notes that this was not always the case, and that the Swedish EIA process came out of a very broken process in the early 1980's. Hans Antonson explains that “since 1987, the production of environmental impact assessment documents (EIAs) has been routine in Swedish planning. Among the aspects an EIA must analyze are the direct and indirect impacts on a landscape of a planned activity or measure.”

In practice this process consists of four major planning steps. Antonson gives the example of the creation of a new road to explain how the process works. “First, the commissioner (i.e. the Road Administration’s regional office) initiates a brief Preliminary Study, identifying possible routes to be investigated further and their possible environmental effects.” This report is often written by a consultant firm. “Then the regional office commissions a Feasibility Study from a consultant. In this document, alternative routes are examined in greater detail. The Feasibility Study also comprises an EIA of the examined routes.” A local, County Administrative Board must approve then approve that the EIA was done to properly. The next step is the Detailed Design Plan, “which shows how much land is needed for the chosen road and how it should be built. This document also contains an EIA covering all the environmental measures that have to be considered when building the new road. This EIA, based on the previous EIA, is more focused on the chosen route and is revised based on the input of the various authorities and experts.” Again, the local County Administrative Board must approve the EIA, and then make it available to the public. “Concurrently, at this stage

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236 Lisitzin, interview.
237 Antonson, “Landscapes with History: Addressing Shortcomings in Swedish EIAs.”
the Road Administration regional office will arrange extended consultations. What will actually be constructed is determined by the Route Construction Plan, which is now confirmed. This implies that any environmental considerations not included in this plan will not, in practice, be implemented." 238

The EIA process is important not only because it evaluates potential threats and provides opportunity to determine alternate plans or plan for mitigation, but also because it is a clear process. Stakeholders, observers, and participants understand the steps that will be taken before the process even starts. There is an expected timeframe and a known place in the process for most parties. Conversely, the EIA process does not significantly improve the role of stakeholders whom are often excluded from discussion, because it does not require active participation at most steps. Therefore exceptional EIA processes include advocates for the stakeholder groups most often excluded.

To further the use of the Swedish EIA model in developing countries, the Swedish International Development Cooperation Agency (SIDA) established the Helpdesk for Environment and Climate Change in order to “assist in integrating environmental perspectives into Swedish development cooperation... The Helpdesk is available ...in partner cooperation countries to provide advice, reviews, guidance and training on environmental integration.”239

As part of existing European conventions, the EIA process, with a cultural heritage component, is already required for any project which may have a negative impact on the environment. Several countries have codified the EIA process as part of their policy documents fulfilling the European Landscape Convention, and therefore the potential benefit of any development must be weighed against the threat to that country’s explicit idea of protected landscapes. Additionally, projects receiving funding from the World Bank require “an environmental assessment for all projects that

238 Ibid.
239 SLU - Sveriges lantbruksuniversitet, “Sida’s Helpdesk for Environment and Climate Change.”
may have a significant negative impact on the environment." Furthermore, to clarify the role of culture in the environment, the EC's Directives on Environmental Impact Assessment and Strategic Environmental Assessment both require a consideration of cultural heritage in decision making. Haeuber notes that "this requirement can go some way to addressing the paradox in the European Community's position whereby the community wishes to conserve and enhance its own cultural identity whilst, at the same time, cultural heritage is usually defined at a local level."

6.2 EIA in the US

In the United States, the National Environmental Policy Act (NEPA) was signed into law on January 1, 1970, and set up the procedural requirements necessary to prepare environmental impact statements for projects that involve federal funding, work performed by the federal government including technical assistance, or require permits from a federal agency. The term environment is purposefully vague but includes protection for:

the status and condition of the major natural manmade, or altered environmental classes of the Nation, including, but not limited to, the air, the aquatic, including marine, estuarine, and fresh water, and the terrestrial environment, including, but not limited to, the forest, dryland, wetland, rangeland, urban, suburban, and rural environment;

(2) current and foreseeable trends in the quality, management and utilization of such environments and the effects of those trends on the social, economic, and other requirements of the Nation;

(3) the adequacy of available natural resources for fulfilling human and economic requirements of the Nation in the light of expected population pressures; (4) a review of the programs and activities (including regulatory activities) of the Federal Government, the State and local governments, and nongovernmental entities or individuals, with particular reference to their effect on the environment and on the conservation, development and utilization of natural resources and; (5) a program for remedying the deficiencies of existing programs and activities, together with recommendations for legislation.

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241 National Environmental Policy Act (NEPA).
Additionally two states, New York and California have especially strict environmental review procedures, both of which include heritage. New York State’s Environmental Quality Review Act process (SEQR), was created for the protection of “air, water, land, and living resources.”

Again, the process only applies to those project that obtain government support, but for New York State, this specifically includes the actions that “All State and Local Agencies Within New York State Including All Political Subdivisions, Districts, Departments, Authorities, Boards, Commissions and Public Benefit Corporations,” directly undertake, fund or approve. If the project “may have a significant impact on the environment, and, if it is determined that the action may have a significant adverse impact,” the agency shall “prepare or request an environmental impact statement.” The environment is specifically defined as “the physical conditions that will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, resources of agricultural, archeological, historic or aesthetic significance, existing patterns of population concentration, distribution or growth, existing community or neighborhood character, and human health.”

The New York State SEQR process has had considerable impact on cultural heritage in the Hudson Valley, including the rejection of a proposed Consolidated Edison Pump Storage Facility at Storm King Mountain, near Newburgh, New York, which was ultimately denied in court because of adverse effects to the scenic viewsheds of Storm King Mountain. The process not only required the environmental review, but the official comment period provided a role for stakeholder input. Citizen groups unhappy with the process were given a formal avenue to present their objections, and after 17 year, won in court in 1980.

242 New York State Environmental Quality Review.
243 Ibid.
244 Ibid.
245 Ibid.
6.3 EIA for Espoo

The United Nations, Economic Commission for Europe (UNECE) Convention on Environmental Impact Assessment in a Transboundary Context (The Espoo Convention), has, since 1991, mandated that each signatory party “take the necessary legal, administrative or other measures to implement the provisions of this Convention, including, with respect to proposed activities …that are likely to cause significant adverse transboundary impact, the establishment of an environmental impact assessment procedure that permits public participation and preparation of the environmental impact assessment documentation.” Projects that are likely to have significant adverse impact on another country, must implement an EIA process and share the results with the other country. Before [the Espoo Convention] there already was some ad hoc, transboundary exchange of documents as well as involvement in decision-making. The Convention has now formalized this into rules and obligations.” According to the convention:

(vii) "Impact" means any effect caused by a proposed activity on the environment including human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interaction among these factors; it also includes effects on cultural heritage or socio-economic conditions resulting from alterations to those factors;

(viii) "Transboundary impact" means any impact, not exclusively of a global nature, within an area under the jurisdiction of a Party caused by a proposed activity the physical origin of which is situated wholly or in part within the area under the jurisdiction of another Party.

Implementation of the Espoo Convention can be as simple as including comments from citizens of neighboring counties who may be impacted, such as the case of residents of the German island of

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246 UNESCO, Espoo Convention. The Convention has been signed and ratified by Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, EU, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, FYROM, Ukraine, and UK. It has been signed but not ratified by the Russian Federation and the United States.


248 UNESCO, Espoo Convention.
Borkum, who “expressed concerns about the visual impacts and air quality,” with an electric power plant on the Dutch mainland. But deBoer also gives another example, where the proposed building of a new railroad terminal in the Netherlands, 1km from the German border, was shown through the EIA process to potentially create additional traffic on the German side of the border. After the EIA was made public, the “German authorities were asked by the German residents to mitigate the impacts of the extra use of the railroad, while at the same time these same authorities were not legally required to act on the matter,” nor did they have authority to seek compensation from the Dutch. Finally, de Boer gives a third case of a joint Dutch-German border industrial area that lies partly in both nations. “Although on the Dutch side the threshold for obligatory EIA was not passed, both cities have decided to make a joint EIA by combined procedures. This combining of two very different procedures is an act of balancing, but it has succeeded. Success grew from the will of both cities to cooperate and to develop this area. One result was a complete bilingual EIA documentation.”

The entirety of the Cetinje Region is in the Skadar Lake Basin and the greater Drin River Basin, so under ESPOO projects that will have impact these waterways must undergo an EIA process. This is despite the fact that Montenegro (up-lake from Albania) has not signed the UNECE Water Convention (see Chapter 3). The EIA process only requires the potential externalities be clarified, not that actions be taken for mitigation. When a project in one country will have adverse effects on another country, there is no reassurance that any mitigation will be provided by the acting country, but the process at least requires communication. It is best implemented, in conjunction with the other legally binding shared management tools.

249 de Boer, “Bilateral Agreements for the Application of the UN-ECE Convention on EIA in a Transboundary Context,” 86.
250 Ibid.
251 Ibid.
CHAPTER 7: CONCLUSIONS

Throughout the world, the management of cultural heritage at the large scale and the regional level is becoming more common. Therefore the need for clear frameworks for management is growing. The characteristics of heritage do not often coincide with political boundaries, especially as the sizes of heritage areas grow. The natural heritage field has had much more time creating models that allow for large scale and transboundary management, but they may not necessarily apply neatly to cultural heritage, especially cultural heritage sites where large numbers of people are living, or where these people and their values create the heritage that is being protected. Such is the coastal region of Montenegro. Further, while the EIA process appears to be the most comprehensive tool for evaluating culture, the environment, and development, it is certainly not a heritage management strategy, and only offers delineation of possible harm, with no required proactive planning or mitigation.

The management of heritage is constantly evolving. In the past few years, the expansion of the scale of protected heritage has forced a reevaluation of the role of protected heritage in governments, civil society, and development. The Cetinje Historic Core site is a clear example of the issues that face regions and landscapes with development pressures and young governments. The role of civil society especially the SEE Heritage Network, and the strength of policies in place in the European Union suggest that the local and international scale can have a strong influence on the national scale. However, the history of the Adirondack Park should act as a warning that the exclusion of stakeholders and an aversion to planning for development, can over time erode the notion that heritage protection is a crucial shared value. Additionally, if there are not adequate laws in place, stakeholder values and interests only last as long as their champions, and there is no guarantee of protection over time.
Protected Areas and Natural Heritage

The IUCN guidelines exist in order to “classify protected areas according to their management objectives. The categories are recognized by international bodies such as the United Nations and by many national governments as the global standard for defining and recording protected areas and as such are increasingly being incorporated into government legislation.”252 The main benefit of the IUCN designations are that they are used as a framework to be adopted by national or sub-national governments, within their legal framework. Heritage protection is legally designated at a level considered on par with international standards. This also creates a relatively even set of laws for transboundary compacts of agreements. A parallel site of guidelines could exist, but the specifics would be standards for heritage protection rather than natural protection.

However, the creation of more categories adding more properties to a protected list only brings forward the problems present in the previous sets of categories and lists. That is, there will continue to be new types of values and heritage that do not properly fit any list or any category. It also does not begin to deal with those areas that will never be considered spectacular, unadulterated, or beautiful enough to make a list. This is especially true of heritage that, again, is not spectacular, unadulterated, or beautiful enough at this time, but certainly be so for other people or at a future time. The most flexibility is in these general heritage management categories, such as the IUCN’s protected areas, which would allow the designations to be adaptive and not prescriptive, and able to respond to the dynamic nature of cultural heritage.

The examples of planning regionally for natural heritage give several strong lessons to cultural heritage management. Primarily, policies for regional cooperation are based in existing international statutes and agreements and so the legal structure is always solid. Conventions at

252 “IUCN - IUCN Protected Area Management Categories.”
UNESCO and UNEP lead to specific directives, therefore the work of NGOs and stakeholders, and eventually government institutions, are supported by ratified UN conventions. This can only happen, however, if a country ratifies the convention. Especially when the convention mandates transboundary cooperation, if even one country refrains from signing, the goal of mandating shared management is useless.

It is also clear that natural heritage, including ecosystems, geological formations, and water systems are rarely bounded by political borders. This leads to international conventions that specifically acknowledge the need for cooperative management, and in several cases (The Convention on Biological Diversity, the UNECE Water Convention), require that regional cooperation happen, or even that legal compacts be ratified to manage the natural resources. Finally, the level of cooperation between management stakeholders can be massive. Reports and documents produced by one agency or one NGO are often signed by half a dozen other agencies and international NGOs. The Dinaric Arc Initiative, for example, is a joint program of four United Nations Agencies, IUCN, five NGOs, along one political party. Cross agency initiatives abound, and therefore the duplication of initiatives is rare, and the messaging of the need for multilateral cooperation is strong. Yet heritage is still often regarded as monuments, and so the inherent mis-understanding of large scale areas of culture, or culturesheds, makes managing trans-boundary difficult.

The Adirondack Park

The case of the Adirondack Park is critical to understand because of its unique divided land use program, where a park-specific regional plan administered by a park-only heritage management body, is superimposed over local plans. The regional plan is concerned with viewsheds, watersheds, and ecosystems of natural heritage, and directs growth and development to historic growth areas. But it is not concerned with the specifics of smaller level zoning decisions that local authorities are better at managing. These local governments are locally elected, and have a
better understanding of the needs and values of their communities. The APA is able to offer advice, and ultimate approval of local plans, but the division of power is crucial for this park. It is important to note that the APA management style can only be directly applied to governments with zoning enabling legislation in place and with a judicial history of upholding the policy of zoning. Outside of these places, the division of jurisdictional authority, and the multiple scales of planning can still be important models.

Perhaps the greater lesson of the Adirondack Park, is the fact that after nearly 250 years of varied management practices, the Park can offer a lot of examples of why management techniques fail. It has all the key problems such as exploitation, an over dependence on tourism, and a loss of stakeholder input in the planning and management process. Studies of its management failures are almost as interesting and telling as evaluating the success of the APA.

**NGOs**

The SEE Heritage Network is highly successful and influential in Southeast Europe, and because of its diverse membership of regional NGOs, regular widely attended workshops and conferences attended beyond its membership, and the aim to widely distribute reports and documents. In many ways, it offers lessons to other regional or national NGOs on how their actions can create a educated and professional civil society, and support positive legislative changes. SEE works extremely hard to promote what it sees as successful policy and legislation, such as the European Landscape Convention, or continued national support for ICOMOS committees, as a sort of capacity building for governments. This is similar to the role the National Trust for Historic Preservation plays through its advocacy role in the United States, at the National, State, and Local level through its Center for State and Local Policy.

The SEE Heritage network is a strong advocate for heritage in Southeast Europe, and in fact is one of the strongest advocates for bilateral cooperation for Skadar Lake. But it is perhaps more
interesting as an example of NGO work in areas that traditionally have stronger governmental protections for heritage, such as in the United States. The National Trust is the largest non-governmental heritage organization in the United States, but it works hard at creating a National preservation voice through programs, like “Save America’s Treasures” or “Main Streets” program. SEE does not claim to represent or understand a comprehensive Southeastern European culture, but instead represents and supports a variety of narratives, some of which are very localized. Additionally, SEE maintains very strong ties with the national ICOMOS committees. Although they are not SEE members, the committees act as professional advisors and cooperate on various project, to create a comprehensive network of professionals and advocates.

EIA

The role of the EIA process is extremely important for regional and transboundary heritage management. It is critical for heritage that the process is required for as many projects as possible. The EIA process does in fact provide an alternative to labeling everything as protected heritage because, if done successfully, the process can evaluate whether a project's benefit to the existing or future society outweighs any harm to any historical, cultural, or ecological heritage. It can provide an option for everything to be considered as heritage, while requiring a clear and predictable evaluation process that considers the nuances in each heritage site, property, or area. However, the EIA process is in no way a substitution for heritage management and planning. It does not necessarily prevent harm to heritage, as much as it offers an avenue for mitigation. But without significant heritage protections and plans in place, the EIA process can do little more than offer alternatives.
The scale of regional heritage sites is expanding. The case of the Cetinje Historic Core tentative UNESCO World Heritage site and the contiguous Skadar Lake area shows that expansion creates management issues by crossing jurisdictional boundaries and including more and more people and potential development. Cultural heritage management techniques from other parts of Europe and North America, and from the natural heritage management field, can provide examples of how to plan for expanding sites while allowing for growth and development. Just as natural heritage has embraced the regional scale of habitats and watersheds, the cultural heritage field needs to plan for culturesheds where historical, natural, and contemporary culture interact without regards for jurisdictional boundaries. If growth and development in these culturesheds is managed and planned for correctly, it can create stakeholder groups and a civil society that both benefit from and take an active role in protecting and managing their cultural and natural heritage in a future.
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