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# When Equity Almost Mattered: Outdoor Recreation, Land Acquisition, and Mid-Twentieth- Century Conservation Politics

## ABSTRACT

*The mid-twentieth century represents a missed opportunity for equity in conservation politics, particularly in the arena of land acquisition. Through the work of the influential Outdoor Recreation Resources Review Commission, questions of the public good emerged at the forefront of policy discussions. The commissioners recommended, and Congress subsequently adopted, strategies by which the public subsidized outdoor recreation opportunities, ostensibly for the benefit of all Americans. Yet the commissioners and Congress stopped short of embracing inclusive social equity in conservation. Debates regarding the governance of recreational lands overshadowed attention to open space access for Americans who needed it the most. Forty years later, a commitment to social equity continues to elude land acquisition efforts, particularly among private land trusts that have dominated land conservation discourse since the late twentieth century. However, lessons learned from these earlier conservation debates can inform current discussions of equity and conservation in valuable ways.*

## I. INTRODUCTION

In 1965, when the civil rights movement, the war on poverty, and modern conservation were in ascendance, President Lyndon B. Johnson called for a conservation ethic that embraced social justice. President Johnson envisioned scenic open spaces that a diverse range of Americans could access, including those who needed them most. He publicly advocated for policies that offered not just “easy physical access” to scenic beauty and open spaces, but also “equal social access for rich and poor, [N]egro and white, city dweller and farmer.”<sup>1</sup>

President Johnson’s call reflected the growing attention to equity—the fair distribution of conservation’s costs and benefits—that

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1. Lyndon B. Johnson, President of the United States, Address on Natural Beauty (Feb. 12, 1965), folder 28, box 1, Conservation Collection 106, Citizens Committee for the Outdoor Recreation Resources Review Commission Report, Denver Public Library [hereinafter CITIZENS COMMITTEE PAPERS].

emerged in land conservation politics following World War II.<sup>2</sup> Faced with the unprecedented demands for outdoor recreation and rapid urbanization, conservation leaders promoted access to public lands long managed for commercial uses and debated strategies designed to protect and expand other types of open spaces.<sup>3</sup> Questions of equity were cornerstones of these debates: Who should pay for conservation? Who should benefit? And how should the country address inequalities in open space availability? Nowhere were these questions more salient than in the efforts of the Outdoor Recreation Resources Review Commission (ORRRC), a federal commission established in 1958. The ORRRC pursued its task when civil rights and conservation issues started to dominate American political discourse and it shaped foundational legislative pieces during the 1960s.

ORRRC members embraced a loosely defined, ultimately utilitarian understanding of equity, viewing outdoor recreation as a broad public good that government should support and taxpayers should fund. At the same time, the ORRRC sought to maximize conservation's public benefits by promoting the expansion of public access to rural and urban open spaces. Congress adopted a similar view of equity when it established the Land and Water Conservation Fund (LWCF), a fund for land acquisition and planning instituted following an ORRRC recommendation. The LWCF advanced outdoor recreation as a central conservation goal and promoted publicly subsidized conservation strategies to ensure broad recreation benefits.

Despite their attention to the public good, the ORRRC and Congress eschewed other important components of equity. Their inattention to the existing inequalities in open space access belied their goal of providing open spaces for "all Americans."<sup>4</sup> Likewise, their recommendations for addressing the recreation demands of future generations ignored disparities in the level of participation by gender, class, and race. As such, the ORRRC and Congress neglected policies and governance

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2. In this article, equity refers to the distribution of the costs and benefits associated with open space protection for recreation purposes. As this article details, ideas about what constitutes an equitable distribution differ markedly.

3. In this article, conservation refers to the protection of open space from land development. In the early 1960s, ecological preservation and species protection had not yet emerged as guiding principles of land conservation. Maintaining scenic beauty and ensuring outdoor recreation opportunities remained the primary goals of open space protection. Human impacts were considered insofar as they affected the quality of outdoor recreation experiences, but they were not considered in terms of their effects on ecosystems. See Adam W. Rome, *William Whyte, Open Space, and Environmental Activism*, *GEOGRAPHICAL REV.* (1998) and SAMUEL P. HAYS, *BEAUTY, HEALTH, AND PERMANENCE* (1987).

4. OUTDOOR RECREATION RESOURCES REVIEW COMMISSION, *OUTDOOR RECREATION FOR AMERICA* 6 (1962) [hereinafter ORRRC].

systems that would have ensured that Americans with the greatest need and fewest means to access recreational areas could do so. Forty years later, many land acquisition efforts still neglect social equity and many low-income and minority communities continue to lack equal access to parks and other open spaces.

This article uses the ORRRC's work and legacy, including that of the LWCF, to analyze equity issues in mid-twentieth century land conservation politics. Part II provides the establishment of the ORRRC and explains the importance of widespread concerns about recreational resources during the mid-twentieth century. Part III describes the principles of equity that guided the ORRRC's recommendations and that influenced subsequent conservation policies. Part IV outlines the limits of the ORRRC's attention to equity and discusses how policy debates about land acquisition and governance overshadowed considerations of social equity. Lastly, Part V draws on the lessons of these debates to recommend strategies that will ensure current conservation efforts better provide open space access to the people who need it most.

## II. OUTDOOR RECREATION AND POSTWAR CONSERVATION

The country's longstanding emphasis on outdoor recreation, as well as mounting national concerns over the diminishing amount of open space, profoundly shaped mid-twentieth century conservation politics. Outdoor recreation's influence on conservation policies partially rested on the benefits attributed to these outdoor pursuits. Americans have long maintained that activities like hiking, fishing, swimming, and hunting uplift the spirit and build a democratic character. These beliefs inspired the creation of urban parks in the late nineteenth century, as well as the establishment of national parks in the early twentieth century.<sup>5</sup> Many mid-twentieth century Americans shared the idea of recreation as re-creation: a way to mitigate the problems associated with modern society and urbanism.<sup>6</sup>

In creating the ORRRC, Congress viewed outdoor recreation as an invaluable resource needed by all Americans. ORRRC Chairman Laurance S. Rockefeller observed that "Congress was keenly aware of the impact of urbanization and industrialization on the lives of our people" when it established the ORRRC.<sup>7</sup> ORRRC members, in turn, viewed pub-

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5. PETER SCHMITT, *BACK TO NATURE* (1969); JOSEPH L. SAX, *MOUNTAINS WITHOUT HANDRAILS* (1980); PAUL SUTTER, *DRIVEN WILD* (2002); DAVID SCHULYER, *THE NEW URBAN LANDSCAPE* (1986).

6. ORRRC, *supra* note 4, at 1.

7. Laurance S. Rockefeller, Speech to the Theodore Roosevelt Association (Dec. 6, 1963), folder 15, box 1, CITIZENS COMMITTEE PAPERS.

lic land management and land acquisition as ways to supply this resource.<sup>8</sup>

Grave concerns over rapid urbanization further shaped post-war conservation politics. Following World War II, the country experienced widespread development. Builders converted a million acres of open space into subdivisions, industrial sites, highways, and airports each year during the 1950s.<sup>9</sup> This growth strongly influenced the leaders responsible for the ORRRC's creation. Joseph Penfold, conservation director of the Izaak Walton League who first proposed a federal commission on recreation and who wrote the ORRRC's enabling legislation, worried about the development that "continues inexorably" across the country.<sup>10</sup> He lamented that as suburbia spread, the country would lose the open spaces necessary for recreation.<sup>11</sup> Colorado Congressman Wayne Aspinall, who cosponsored the ORRRC's enabling legislation, shared Penfold's concern, agreeing that "growing cities, expanding industry, highways, and more intensive farming" resulted in less "land and water available" to meet recreation demands.<sup>12</sup> He asserted that, while no one should "stop this healthy growth," the country still needed to "make the best possible use of land and water . . . left."<sup>13</sup>

Concerns over recreation supply were compounded by the heightened public demand for outdoor recreation during this era. Following years of recreational deprivation, first due to the Great Depression and then due to wartime restrictions, post-war Americans headed to the outdoors in record numbers. From 1940 to 1950 visits to national forests for recreation purposes grew from 16 million to 27 million.<sup>14</sup> By 1960, visits had risen to 92 million, and by 1965 the number stood at 147 million.<sup>15</sup> Similarly, from 1951 to 1959 visits to national parks rose by 86 percent, and visits to recreation areas increased by 143 percent.<sup>16</sup> This surge in recreation affected state lands as well. In 1947 there were 97 million visits to state park lands, and by 1962 that number increased to 285 million.<sup>17</sup>

8. ORRRC, *supra* note 4, at 6.

9. ADAM ROME, *THE BULLDOZER IN THE COUNTRYSIDE* 120 (2001); ORRRC, *supra* note 4, at 1.

10. Quoted in Kenneth A. Hammond, *The Land and Water Conservation Fund Act: Its Development and Impact* 27 (1969) (unpublished Ph.D. dissertation, University of Michigan).

11. Hammond, *supra* note 10, at 27.

12. *Id.*

13. *Id.*

14. MARION CLAWSON & JACK L. KNETSCH, *ECONOMICS OF OUTDOOR RECREATION* 190 (1966).

15. CLAWSON & KNETSCH, *supra* note 14, at 190.

16. ORRRC, *supra* note 4, at 35.

17. CLAWSON & KNETSCH, *supra* note 14, at 191.

This desire to protect recreation opportunities proved pivotal to mid-twentieth century conservation politics. It prompted Congress to establish the ORRRC as a means to achieve three goals: (1) determining the current recreation wants and needs of the American public, and the projected wants and needs in 1976 and 2000, (2) assessing the national resources available to meet those needs, and (3) providing recommendations for policies and programs necessary to ensure that the needs were adequately and efficiently met in the present and future.<sup>18</sup> In response, the ORRRC studied a range of conservation strategies to ensure outdoor recreation. Some 27 studies were commissioned on topics including wilderness preservation, multiple-use of land and water, open space acquisition, and financing for public recreation facilities.<sup>19</sup> Ultimately, ORRRC's recommendations led Congress to pass key pieces of legislation: the Wilderness Act (1964), the Land and Water Conservation Fund (1965), the Wild and Scenic Rivers Act (1968), and the National Trails Act (1968).<sup>20</sup>

### III. PROMOTING EQUITY, BROADLY DEFINED

The ORRRC's recommendations rested on three principles of equity: (1) maximizing broad public access to recreation, (2) distributing conservation's costs evenly across the population, and (3) ensuring government oversight of land acquisition decisions. Based on these principles, the commissioners sought to expand public recreation opportunities through various strategies, including multiple-use land management, recreation zoning, and land acquisition and planning. In doing so, they favored public subsidies of land conservation as well as government oversight of acquisition and planning.

#### A. A Wide Distribution of Equity

The ORRRC members' first notion of equity was to distribute recreation benefits as widely as possible. The commissioners asserted that "all American people" should have access to outdoor recreation's "physical, cultural, and spiritual" benefits.<sup>21</sup> Following this philosophy, the commission recommended strategies to maximize the availability and variety of recreational opportunities, including focusing on promoting recreation through public land use management. They encouraged public agencies to "adjust their management practices and planning proce-

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18. ORRRC, *supra* note 4, at 2.

19. *Id.* at 199.

20. ROBIN W. WINKS, LAURANCE S. ROCKFELLER: CATALYST FOR CONSERVATION (1997).

21. ORRRC, *supra* note 4, at 6.

dures to provide for general recreation development.”<sup>22</sup> In addition, they proposed that recreation “be recognized as a motivating purpose” in programs such as water pollution control and multi-purpose water developments; even agricultural conservation programs, they argued, “should be oriented toward greater recreation benefits for the public.”<sup>23</sup> By elevating the importance of recreation in public land management, the ORRRC allowed greater access to these lands historically managed for their commercial benefits.

This triumph was not without difficulty. From the ORRRC’s inception, a tension existed between whether federal lands should be conserved for commodity versus recreation interests. Joseph Penfold viewed the commission as a means to advance recreation as a dominant public purpose of federally protected lands.<sup>24</sup> He proposed the creation of ORRRC “because of the paucity of outdoor recreation data to hold up our end of things against the Bureau of Reclamation and commercial interests in the West.”<sup>25</sup> Yet two major sponsors of the ORRRC’s enabling legislation, Colorado Congressman Wayne Aspinall and Wyoming Senator Joseph C. O’Mahoney, were long-time advocates of commercial use of these lands.<sup>26</sup> Aspinall sought to reduce federal agencies’ authority over the public domain by enhancing congressional authority over federal resources, while O’Mahoney endeavored to advance the range livestock industry’s interests.<sup>27</sup> Ultimately, the recreation-oriented ORRRC members succeeded in turning the multiple-use concept to the advantage of public access, and against extractive uses of these lands.<sup>28</sup>

The commissioners also advocated for a nationwide comprehensive land use classification system to promote urban and rural recreation opportunities. The commissioners believed the system would help to ensure a “balance of all types of opportunities” by encouraging the “logical adjustment” of disparate recreation activities to the “entire range of available areas.”<sup>29</sup> As such, they outlined six land use classes. Several focused on high-density recreation managed for mass use, a goal of sev-

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22. *Id.* at 105.

23. *Id.* at 8–9.

24. Joseph Penfold, *Remembrance* (1972), box 13, Conservation Collection 41, Izaak Walton League Records, Denver Public Library.

25. *Id.*

26. See E. LOUISE PEPPER, *THE CLOSURE OF THE PUBLIC DOMAIN* (1951).

27. SAMUEL TRASK DANA & SALLY K. FAIRFAX, *FOREST AND RANGE POLICY* (2d ed. 1980).

28. The multiple-use principle holds that public land should be managed for a range of uses, such as timber production, livestock grazing, watershed management, and recreation.

29. ORRRC, *supra* note 4, at 49.

eral commissioners, including Rockefeller.<sup>30</sup> “I feel there is too much emphasis on the preservation of land and not enough on the use of [sic] development of it,” he explained in a meeting of the Advisory Council, a group of public officials, land managers, and industry leaders that advised the ORRRC.<sup>31</sup> The underlying belief was that high-density spaces could serve more people. An ORRRC report bolstered this view, concluding that the acquisition of 140,000 acres and the extensive development of existing lands could satisfy the country’s future recreation needs.<sup>32</sup> Other commissioners, however, defended the need for public access to natural outdoor experiences.<sup>33</sup> Class V of the system, which included undisturbed roadless areas characterized by natural, wild conditions, represented an effort to meet their priorities.<sup>34</sup>

The ORRRC members also championed non-acquisition strategies, particularly land use planning, as ways to protect urban and rural open spaces. The commissioners regarded planning and land use regulations as critical tools for maximizing recreation resources, pointing to the country’s inefficient land use patterns and the need to provide a balance of recreation opportunities.<sup>35</sup> Consequently, they believed planning should be a prerequisite to state and local access to federal acquisition funds. The ORRRC insisted that a land conservation fund should “promote State planning and acquisition and development of areas to meet the demands of the public.”<sup>36</sup> Although commissioners prioritized a state-wide plan, they also recommended that local governments should consider citizens’ needs for open space in “all land-use planning.”<sup>37</sup>

The commissioners’ most influential recommendation was the establishment of a national program for land acquisition. Arguing that outdoor recreation was a national concern, ORRRC members outlined a federal grant-in-aid program to help “stimulate and assist” state acquisition and planning.<sup>38</sup> Based on the commissioners’ recommendations, President John F. Kennedy introduced legislation to create the LWCF, stating that “the nation needs a land acquisition program to preserve

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30. *Id.* at 97.

31. ORRRC, PROCEEDINGS OF THE SECOND JOINT MEETING WITH ITS ADVISORY COUNCIL 71 (1960) [hereinafter ORRRC SECOND MEETING].

32. ORRRC, PUBLIC OUTDOOR RECREATION AREAS 87 (1962).

33. ORRRC SECOND MEETING, *supra* note 31, at 67.

34. ORRRC, *supra* note 4, at 96.

35. Sarah L. Thomas, *The Politics of Growth: Private Rights, Public Amenities, and Land Use Debates in Seasonal Cities, 1955–1985* (2009) (unpublished Ph.D. dissertation, University of California, Berkeley) (on file with author).

36. ORRRC, *supra* note 4, at 10.

37. *Id.* at 8.

38. *Id.* at 10.



both prime federal and state areas for outdoor recreation purposes.”<sup>39</sup> He noted that “[t]he growth of our cities, the development of our industry, the expansion of our transportation systems—all manifestations of our vigorous and expanding society preempt irreplaceable lands of natural beauty and unique recreation value.”<sup>40</sup> The LWCF proved an enduring, if sometimes unstable, funding source for state land acquisition.<sup>41</sup>

## B. Subsidizing Public Access

The commissioners’ second notion of equity emphasized the public sector’s role in meeting conservation costs. ORRRC members recommended that government funds should pay for the majority of planning and acquisition.<sup>42</sup> Recreation, they concluded, was too important to leave to private businesses or individual Americans.<sup>43</sup> As Penfold explained to Congress in 1963, “[the] individual citizen cannot provide his own outdoor recreation: if the test of responsible government is that it should do those things which the people cannot do for themselves, then providing outdoor recreation opportunities is clearly a governmental responsibility.”<sup>44</sup>

Although the commissioners agreed on a strong public sector role, they debated whether to charge individual citizens with user fees. Many, including Rockefeller, regarded fees as “essential” to “getting a maximum development” of outdoor recreation potential.<sup>45</sup> Not only were user fees necessary to meet recreation costs, they also encouraged social responsibility. Other members, however, believed user fees undermined the social goals of recreation. “If recreation was to be part of helping to develop the whole man,” explained Commissioner and Pennsylvania Congressman John P. Saylor, it was a government service for which “absolutely no fee” should apply.<sup>46</sup> Conrad Wirth, National Park Service di-

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39. Letter from John F. Kennedy, President, United States of America, to the President of the Senate and Speaker of the House (Feb. 14, 1963), *available at* <http://www.presidency.ucsb.edu/ws/index.php?pid=9560>.

40. *Id.*

41. In its first 30 years, the LWCF generated \$7 billion to fund 37,000 state and local recreation projects. In addition, all 50 states participated in the program from 1965 to 1981, when a severe reduction in federal financing for the fund caused many states to cut back in their planning efforts. *See WINKS, supra* note 20, at 137.

42. ORRRC, *supra* note 4, at 169.

43. *See ORRRC SECOND MEETING, supra* note 31, at 30.

44. Statement by Joseph Penfold, Conservation Director, Izaak Walton League, to the Senate Committee on Interior and Insular Affairs (Mar. 7, 1963) *in* folder 2, box 1, CITIZENS COMMITTEE PAPERS.

45. *See ORRRC, PROCEEDINGS OF THE FOURTH JOINT MEETING WITH ITS ADVISORY COUNCIL* 54 (1961) [hereinafter ORRRC FOURTH MEETING].

46. *Id.*

rector and member of the ORRRC's Advisory Council, expressed a similar view. Comparing parks to schools and other public facilities that have a "decided influence and effect on individuals," Wirth advocated a basic tax instead of user fees.<sup>47</sup> Ultimately, the commission recommended user fees, but insisted that no citizen be "precluded" from outdoor recreation based on an "inability to pay."<sup>48</sup>

Congress eventually integrated these views when establishing the LWCF. The LWCF relied almost entirely on public funds and placed the primary financial burden on the federal government. Funds for planning, acquisition, and development came from the federal real estate sales and revenues derived from Outer Continental Mineral receipts.<sup>49</sup> Congress, however, incorporated user fees, stipulating that recreation user fees and motorboat fuel taxes help to support the LWCF.

### C. Planning and Oversight

The ORRRC's final aspect of equity focused on government oversight, which the commissioners recommended as a requirement for state and local access to federal funds. They proposed that state agencies should oversee outdoor recreation and insisted that states prepare long-range plans for the development of outdoor opportunities.<sup>50</sup> The plans, they maintained, should articulate clear objectives, analyze state resources, and identify public demands for outdoor recreation.<sup>51</sup> Most importantly, state governments should provide oversight to ensure that acquisition and planning efforts served the broad population. The ORRRC recommended that state governments establish funding standards and controls to "ensure that all elements of the population are served effectively."<sup>52</sup>

Congress adopted these tenets in the passage of the LWCF, which included mechanisms to ensure government oversight of land acquisition and planning. Congress stipulated that states receive federal grants only if they complete, and receive federal approval for, a statewide comprehensive recreation plan, or SCORP. These plans outline public recreation needs and opportunities and are held in state offices, which are responsible for distributing federal funds. The LWCF embraced much of the ORRRC's three notions of equity: a wide distribution of outdoor rec-

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47. *Id.* at 56.

48. ORRRC, *supra* note 4, at 169.

49. Hammond, *supra* note 10, at 97.

50. ORRRC, *supra* note 4, at 171.

51. *Id.*

52. *Id.* at 170.

recreation opportunities, public subsidization of land conservation, and government oversight of land acquisition and planning.

#### IV. EQUITY OVERSHADOWED

Despite their commitment to publicly subsidized, broadly distributed recreation opportunities, ORRRC members ignored more inclusive notions of equity. Their interpretation of “all Americans” remained loosely defined, and their recommendations neglected socioeconomic, racial, and gender differences when it came to those who participate in these recreational activities. The commissioners likewise ignored longstanding inequalities in open space distribution, as well as social factors impinging on Americans’ ability to access open spaces. As a result, their recommendations did not translate into policies that improved recreation opportunities for the Americans who needed them most.

##### A. Race, Gender, and Class

The ORRRC recognized that participation in recreational activities differed according to a range of socioeconomic factors. Several reports analyzed involvement based on income, age, education level, and geography. The ORRRC showcased some of the “significant differences” in outdoor recreation between “young and old, rich and poor, city people and suburbanites” in its final report, *Outdoor Recreation for America*.<sup>53</sup> For instance, it showed that 36 percent of Americans in the highest income bracket participated in boating, compared to only 4 percent in the lowest income bracket.<sup>54</sup> It further noted that 32 percent of middle-class Americans fished for pleasure, while only 27 percent of Americans in the highest income bracket did.<sup>55</sup> Yet, the commissioners did not make specific policy recommendations based on these findings. They did not recommend means to improve lower-income access to particular activities, nor did they advocate expanding activities popular with lower-income groups.

Similarly, the ORRRC’s recommendations ignored participation by gender and race, despite compelling data on the topic. Although white males had the highest participation in outdoor activities overall, one ORRRC study found several activities in which both white and minority women participated more frequently than men during much of the year. These activities included picnics, walking for pleasure, and nature walks (described as walking to observe birds, other animals, and

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53. ORRRC, *supra* note 4, at 27.

54. *Id.* at 38.

55. ORRRC, *supra* note 4, at 38.

plants).<sup>56</sup> This study also showed that both male and female minorities' participation in several activities equaled or surpassed that of whites during much of the year. These activities included bicycling, fishing, hunting, nature walking, picnicking, playing outdoor games, and walking for pleasure.<sup>57</sup> Yet, these findings did not influence the Advisory Council's or the ORRRC's recommendations. The Advisory Council acknowledged that "social factors" might lead to "variations" in recreation demand, but mentioned only differences for "incapacitated" and "older age groups."<sup>58</sup> In *Outdoor Recreation for America*, the ORRRC downplayed differences in women's outdoor recreation, observing that outdoor "participation does not vary by sex as much as by age or income."<sup>59</sup> Strikingly, the ORRRC made no mention of different participation rates based on race. As a result, the ORRRC did not prescribe ways to improve minority or female participation in certain activities, nor means to expand open spaces for the activities these groups enjoyed.

## B. Existing Inequalities in Open Space Access

The commissioners also failed to address existing inequalities when it came to open space access. Although the ORRRC identified racial and gender differences, it did not specify whether the low levels of participation were due to preferences or to social barriers. Indeed, the ORRRC commissioned little research on the topic. One study noted that data on the social factors influencing Americans' "opportunity to participate" was "probably quite important," but acknowledged that such information was missing.<sup>60</sup> Nor did the Commission's recommendations redress existing inequalities in open space distribution within a community. These omissions are striking given the contemporary recognition that the "low-income central city areas . . . deficient in recreation spaces are likely to be Negro; the suburban and outer city ring areas, generally supplied with recreation, are likely to be white."<sup>61</sup>

Insofar as the commissioners differentiated Americans' access to open space, they did so on the basis of broad geographic location. The commissioners, as well as members of the Advisory Council, described the geographic imbalance in open space availability as the most pressing problem in outdoor recreation.<sup>62</sup> "Most of our public lands are in the

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56. *Id.* at 150, 155.

57. *Id.* at 142, 146, 149, 150, 155.

58. ORRRC SECOND MEETING, *supra* note 31, at 113.

59. ORRRC, *supra* note 4, at 28.

60. ORRRC, PROSPECTIVE DEMAND FOR OUTDOOR RECREATION 37 (1962).

61. CLAWSON & KNETSH, *supra* note 14, at 151.

62. ORRRC SECOND MEETING, *supra* note 31, at 114.

West while most of our people are in the East,” asserted one Advisory Council member, “[we] need to try to redress the balance.”<sup>63</sup> The commissioners noted that the western United States contained 72 percent of available recreation acres, but a significantly smaller portion of the population.<sup>64</sup> In comparison, the densely populated Northeast contained 4 percent of these acres.<sup>65</sup> The states mirrored this national pattern of imbalance: Recreation resources existed outside the metropolitan areas, “just beyond the range of mass recreation use. . . .”<sup>66</sup> It was these geographic imbalances in open space access that absorbed the commissioners’ focus, not the discrepancies in access based on class, gender, or race.

### C. Limited Policy Recommendations

The commissioners’ inattention to the inequalities in open space access resulted in limited policy recommendations. The commissioners advanced “relatively new” strategies such as cluster development and conservation easements for urban open space protection, which they deemed necessary given the high price of urban land.<sup>67</sup> They also suggested that LWCF funds facilitate urban land acquisition. However, they did not propose a specific fund targeted at urban open space protection, let alone one to benefit underprivileged neighborhoods. Nor did the commissioners lend significant support to existing urban open space acquisition programs. They acknowledged the complementary nature of the Open Space Land Program of the Housing and Home Finance Agency (HHFA), which offered grants to both states and local governments to acquire permanent open space land in urban areas.<sup>68</sup> Yet, notwithstanding the Advisory Council’s admonition that urban open space programs be “continued and strengthened,” the Commission merely recommended that they “be continued.”<sup>69</sup>

In part, these limited recommendations resulted from competing ideas about land acquisition. Many commissioners advocated for urban land acquisitions, arguing that they would ensure “recreational opportunities that serve a broad base of recreational needs.”<sup>70</sup> Likewise, Advisory Council member Robert Howes maintained that acquisition should be of “higher priority” than development given that “needs are as great as

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63. *Id.*

64. ORRRC, *supra* note 4, at 51.

65. *Id.*

66. *Id.* at 49.

67. *Id.* at 148.

68. Analysis by Citizens Committee for Outdoor Recreation Resources Review Commission Report, folder 2, box 1, CITIZENS COMMITTEE PAPERS.

69. ORRRC FOURTH MEETING, *supra* note 45, at 117; ORRRC, *supra* note 4, at 8.

70. ORRRC FOURTH MEETING, *supra* note 45, at 65.

they are.”<sup>71</sup> Other commissioners, however, including Rockefeller, favored development of existing recreation resources over acquisition of new ones. “Equal consideration must be given to planning for the use of presently owned land,” Rockefeller argued, “which in many cases is more important than acquisition of new areas.”<sup>72</sup> The ORRRC’s final report reflected this attitude. It insisted that the recreation supply problem was “not one of number of acres but of *effective* acres” (emphasis in original).<sup>73</sup>

The commissioners’ preoccupation with land governance further overshadowed these considerations. Of the Advisory Council’s 12 study committees, seven focused explicitly on questions of government responsibility. Many Advisory Council and ORRRC members expressed reluctance to rely heavily on local governments for land protection.<sup>74</sup> The ORRRC’s draft report described local governments as “slow to give adequate emphasis and recognition to public outdoor recreation needs.”<sup>75</sup> Commissioner and New Mexico Senator Clinton Anderson agreed with this assessment, challenging the commissioners who advocated for a “primary” local role.<sup>76</sup> Others expressed strong reservations about relegating responsibility to the federal government, which seemed too distant from communities and regions to adequately address their recreation needs.<sup>77</sup>

Ultimately, the commissioners asserted that the states’ role was “pivotal” to land acquisition and planning.<sup>78</sup> The states were closer to land use decisions than the federal government and represented the most “logical units to provide the flexible approach required to satisfy varying needs.”<sup>79</sup> Key commissioners such as Penfold believed that direct aid to the states would “stimulate the best kind of cooperation, and assure full participation.”<sup>80</sup> Moreover, the states would be “particularly effective in stimulating counties and municipalities,” as well as in “stimulating private enterprise.”<sup>81</sup>

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71. ORRRC, PROCEEDINGS OF THE FIFTH JOINT MEETING WITH ITS ADVISORY COUNCIL 3 (1961).

72. ORRRC FOURTH MEETING, *supra* note 45, at 104.

73. ORRRC, *supra* note 4, at 49.

74. ORRRC FOURTH MEETING, *supra* note 45, at 116.

75. ORRRC, *supra* note 4, at 119.

76. ORRRC SECOND MEETING, *supra* note 31, at 47.

77. *Id.* at 49.

78. ORRRC, *supra* note 4, at 6.

79. ORRRC, *supra* note 4, at 94.

80. Letter from Joseph Penfold, Conservation Director, Izaak Walton League, to National Executive Board of the Izaak Walton League (Nov. 1956) box 13, Conservation Collection 41, Izaak Walton League Records, Denver Public Library.

81. ORRRC, *supra* note 4, at 94.

Debates over land acquisition and governance re-emerged in Congress during discussions of the LWCF proposal. The initial draft of a Land Conservation Fund (S. 3117) met with great resistance in Congress, in part due to the focus on federal land acquisitions.<sup>82</sup> Conservationists and wilderness advocates supported the bill, viewing it as consistent with Congress's intent in creating the ORRRC.<sup>83</sup> Moreover, they believed that a strong federal role in land acquisition would strengthen their position against the commercial users of public lands.<sup>84</sup> Opponents, particularly the American Pulpwood Association and the National Lumber Manufacturer's Association, favored state control and an emphasis on recreational development, viewing them as more likely to stem the tide of recreational uses of public lands. Congress's next attempt, the LWCF bill that passed in 1964, tried to balance responsibility for land acquisition between federal and state governments.<sup>85</sup> This version allocated 60 percent of grant funds to the states and 40 percent to federal agencies.<sup>86</sup>

While engaged in these protracted battles over acquisition and governance, both Congress and members of the ORRRC failed to take up the cause of social equity. The inattention to participation by different socioeconomic, racial, and gender groups, as well as to existing inequalities in open space access, translated into policies designed to promote broad recreation opportunities but without serving the populations who most needed them. Although contemporary studies showed that "the poorest people, who most need easily accessible parks and playgrounds, often have them least," the commissioners did not address the difficulties of minorities, women, or the urban poor in accessing existing open space.<sup>87</sup> They also did not, for instance, recommend Congress tie acquisition funding to improved transportation or subsidized outdoor experiences for poor children. Nor did they emphasize acquisition of open spaces near neighborhoods that most needed them. As a result, they never approached President Johnson's vision of conservation policies based on physical and social access to scenic areas and open spaces.

## V. LESSONS FROM MID-TWENTIETH-CENTURY CONSERVATION POLITICS

Forty years later, equity remains a pressing issue in conservation, particularly in land acquisition. Low-income and minority communities

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82. See Hammond, *supra* note 10, at 76.

83. *Id.* at 78.

84. *Id.* at 79.

85. *Id.* at 79, 95.

86. *Id.* at 95.

87. CLAWSON & KNETSH, *supra* note 14, at 151.

continue to lack equal access to parks, open space, and bike trails.<sup>88</sup> Acquisition efforts may perpetuate these inequalities: A study in Los Angeles County showed that communities with existing open space received more money for further land acquisition than those with little open space.<sup>89</sup> Even when nearby open space exists, it is often of lower quality if located near urban poor and minorities than if situated near middle-income groups. A study of the Chicago River Corridor revealed that vegetation quality, maintenance, and access were worse near low-income, minority neighborhoods than in adjacent sections in higher income, white neighborhoods.<sup>90</sup> Finally, conservation strategies do not always consider low-income and minority communities' recreation preferences, which may differ from higher-income white communities.<sup>91</sup>

Limited access to open space remains even as low-income and minority groups show strong support for publicly subsidized conservation efforts. A 2004 poll showed that 77 percent of Latino voters supported new conservation funding, compared to 65 percent of all voters.<sup>92</sup> Likewise, a 2002 California proposition that dedicated public funds to parks, clean air, and clean water initiatives received strong support among minority and low-income voters. According to exit polls, 77 percent of African American and 74 percent of Latino voters backed the proposition, compared with 56 percent of Euro-Americans. Of voters earning less than \$20,000 a year, 75 percent supported the proposition.<sup>93</sup>

Given these realities, current acquisition and conservation efforts must do more to ensure accessible open spaces for underprivileged communities. LWCF funds should target acquisition projects that benefit these communities just as advocacy groups should advance policy initia-

88. Paul H. Gobster, *Perception and Use in a Metropolitan Greenway System for Recreation*, LANDSCAPE AND URBAN PLANNING (1995); Emily Talen, *Visualizing Fairness: Equity Maps for Planners*, J. AM. PLAN. ASSOCIATION (1998); Emily Talen & L. Anelin, *Assessing Spatial Equity: An Evaluation of Measures of Accessibility to Public Playgrounds*, ENV'T & PLAN. (1998). See also Jin-Hyung Lee & David Scott, *Structural Inequalities in Outdoor Recreation Participation: A Multiple Hierarchy Stratification Perspective*, J. LEISURE RES. (2001).

89. J. Wolch, J.P. Wilson & J. Fehrenbach, *Parks and Park Funding in Los Angeles: An Equity Mapping Analysis*, [http://college.usc.edu/geography/ESPE/documents/publications\\_parks.pdf](http://college.usc.edu/geography/ESPE/documents/publications_parks.pdf) (last visited Nov. 19, 2009).

90. John F. Dwyer & R. Hutchison, *Outdoor Recreation Participation and Preferences for Black and White Chicago Households*, in SOCIAL SCIENCE AND NATURAL RESOURCE RECREATION (J. Vining ed., 1990).

91. Greg Lindsay, *Access, Equity, and Urban Greenways: An Exploratory Investigation*, PROFESSIONAL GEOGRAPHER (2001).

92. Tim Ahern, *Poll Shows Bipartisan Support for Conservation*, Apr. 19, 2004, [http://www.tpl.org/tier3\\_cd.cfm?content\\_item\\_id=14525&folder\\_id=186](http://www.tpl.org/tier3_cd.cfm?content_item_id=14525&folder_id=186).

93. California State Parks Planning Division, *Planning Trends and Information for California State Parks*, BEAR FACTS (2002), <http://www.parks.ca.gov/pages/795/files/june%2002%20issue.pdf>.



tives that improve open space access for the populations who need it the most. Greater attention to social equity is particularly critical among private land trusts, which have taken a leading role in land protection since the late twentieth century.<sup>94</sup> Only 10 percent of land trusts focus on conservation in urban areas, where many low-income and minority communities reside.<sup>95</sup> Moreover, many of the lands they protect through publicly subsidized conservation easements preclude public access. A recent assessment of San Francisco Bay Area easements found that only 1 percent of acreage was open to recreation, 5 percent had restricted access, and 94 percent was closed to recreation.<sup>96</sup>

In redressing these inequities, current conservationists would do well to draw on the lessons from this earlier era of conservation politics. Most importantly, they must incorporate social equity into policy discussions. Mid-twentieth-century conservation politics have shown that the needs of specific groups are often ignored even though there is a strong emphasis on the public good. As other debates absorbed the ORRRC and Congress, underprivileged communities retained marginal access to open spaces. Equity, therefore, should be a central consideration in government acquisitions and recreation planning. It also should inform land trusts' efforts to a greater degree. For example, the Internal Revenue Service could play an important role by offering greater tax incentives for acquired or eased open spaces in low-income and minority communities.

As was evident with the ORRRC and the LWCF, it is not enough to protect open space for the broad public good. It is necessary to ensure that people with the most need of open space have access to it. This means expanding open spaces near underprivileged communities, ensuring public transit to open spaces located outside these communities, and improving awareness of these areas. Only with equity at the forefront of policy discussion will conservationists approach the union of conservation and social justice that President Johnson envisioned.

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94. SALLY K. FAIRFAX ET AL., *BUYING NATURE: THE LIMITS OF LAND ACQUISITION AS A CONSERVATION STRATEGY, 1780–2004* (2005); J.A. GUSTANSKI & R.H. SQUIRES, *PROTECTING THE LAND* (2000).

95. Adina Merenlender, et al. *Land Trusts and Conservation Easements: Who Is Conserving What for Whom?*, *CONSERVATION BIOLOGY* (2006).

96. Adena Rissman, *The Conservation Contributions of Conservation Easements: Analysis of the San Francisco Bay Area Protected Lands Spatial Database*, *ECOLOGY & SOC'Y* (2008).