

# Owning Mother Nature

EDITH CHERRY  
University of New Mexico

From the view point of outer space, the anthropologist from Mars, enjoying an objectivity not possible on Earth, might find it of great interest that certain Earthlings believe they can **OWN** portions of the planet. As it turns out, a large number of the inhabitants, though certainly not all, believe that lines can be drawn on the sphere and allocated to different individuals, groups, and political entities. At this distance there is in the idea a certain arrogance that is difficult to dismiss.

We seek to make our interventions on the earth more appropriate in the future. In order to do this we need the fresh view that a look at history provides. In the Southwest, the history of land ownership and tenancy is unique, and it is here that we hope to find suggestions for new and revived attitudes toward the land.

Let us begin by defining terms. The notion of "tenure" is the most important. Academics are imminently familiar with the word "tenure," and can well understand that it means "the right to stay." Before the arrival of Europeans in what is now the Western United States, tenure was determined by the system of usufruct. The word comes from Latin for "the uses of the fruits" of the land. The concept can be rephrased today as "use it or lose it."

Relationships to the land included nomadic groups that traveled over considerable territory such as the Apaches, and transhumance groups, that is groups that move between locations seasonally such as the Navajos at Canyon de Chelly, and sedentary farmers such as the Pueblos of Hopi, Zuni and those of the Rio Grande valley.

With usufruct it is the presence of the tenant on the land, using the land, that generates the relationship. When the tenant ceases to use the land there is no relationship. Consequently, there is no such thing as an absentee landlord. There is the idea of territory, hunting territory, gathering territory, and farming and other domestic use territory.

The concept of usufruct is very different from later notions of tenure. The land essentially does not belong to the tenant or any humans, Humans and animals have similar status with regard to use of the land, and are beholden to the earth for their livelihood. The notions are reinforced, or

indeed generated, by the cosmology common to many Native American groups which holds that humans emerged from the interior of the earth rather than being placed upon it from above.

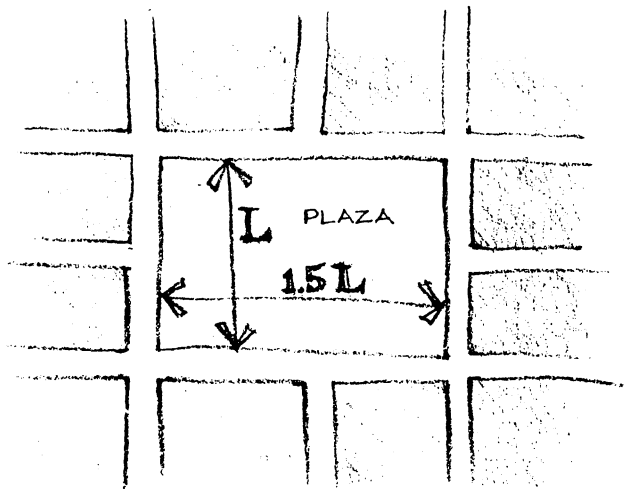
## THE SPANISH ERA

The Spaniards began to explore the Southwest in 1540 with the entrance of Coronado who was looking for profits for the king, and to a lesser extent, souls to save. By the beginning of the 1600s colonies were being developed as a way to secure Spain's claim to the northern limits of their empire. The concept in this case was that kings, as part of their divine right, owned land claimed in their name and for the "Glory of God." Land was claimed in the name of the monarch who then could grant it to groups or individuals. These gifts were at the mercy, *merced*, of the king; and therefore were referred to as *mercedes*.

The Spaniards had become very adept at colonizing by the time they reached the Southwest, having had some eight decades of experience since Cortez took over Mexico City. The land planning in the colonies was of two types; urban and rural. Grants were laid out according to the Law of the Indies of Philip II, drafted in 1573. These laws, the first design guidelines in the Western Hemisphere, attempted to develop the ideal Renaissance city as described by Alberti, which he based upon ideas of Vitruvius. In most of Europe the ideals of the Renaissance city were greatly compromised by the existing circumstances of the medieval cities (Crouch, et al, 1982, xv.). The New World offered the rare opportunity to "get it right this time." The clean slate gave rise to the development of the "export culture," that body of social concepts that never existed in any pure form at home, but was devoutly to be wished there.

Philip II's edition of the *Laws of the Indies* included 148 ordinances ranging from how to locate cities and lay them out, to where to put the tanneries and slaughter houses. As an example, Law 112 through 114 were concerned with the layout of the plaza. Number 112 says in part,

"The plaza should be square or rectangular, in which



## LAWS OF THE INDIES # 112, 113, AND 114

case it should have at least one and a half its width for length inasmuch as this shape is best for fiestas in which horses are used and for any other fiestas that should be held.”

Number 113 establishes a minimum dimension of 200 feet by 300 feet and Number 114 says the four corners should face the four principal winds. The ordinances provide for location of the church and important government buildings as well as assignment of lots beyond the plaza to private individuals (Spaniards, not Indians) by lottery. Number 129 decrees that a commons for grazing cattle be delimited (Couch, et al, 1982, page 12+)

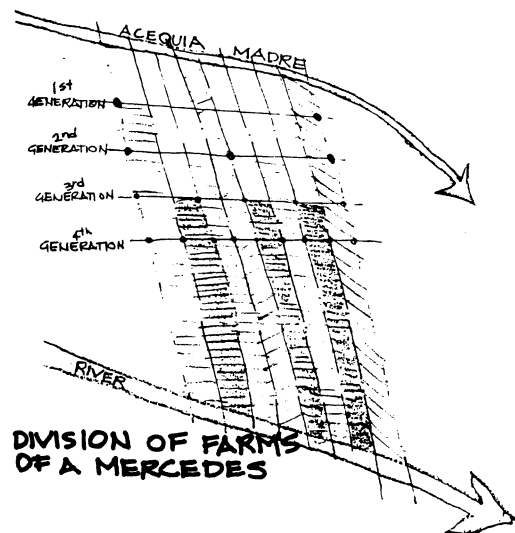
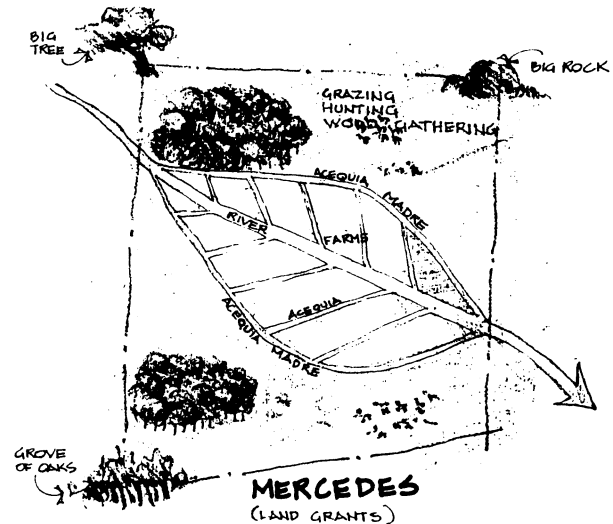
It is important to note that the plaza was the heart of the community and was owned in common to all the inhabitants for common purposes. Santa Fe, Albuquerque, Los Angeles, Saint Louis, and many other locations bear the evidence of these royal instructions even today.

## RURAL MERCEDES

Rural land grants were made to groups of families by the King and after the revolution, by the Mexican government. The desire to secure the hinterland established grants as far north as the present New Mexico and Colorado border.

The prototypical rural land grant identified a portion of land often designating obvious features, a large tree or rock. The grant would include a reliable water course capable of being diverted into a major irrigation ditch on each bank called the *acequia madre*. From this major ditch, smaller ditches, *acequias*, fed the fields. These irrigation systems were used back in Spain, so the technology was familiar. The irrigated areas were used for farming and were deeded to individual families. The other lands were held in common by the grant families for grazing, hunting and wood gathering.

Spanish inheritance laws, which were based on Roman Law, deeded land equally to the children regardless of gender.



The family farm lands had to be divided to allow access to water, that is to the acequia madre. Through the years the parcels of land grew slimmer and slimmer. The diminishing size encouraged enterprising children to seek new grants and therefore expand the influence of the granting party.

The influence of the rural land grant system is evident today in some rural areas of the southwest where agriculture is still the dominant economy and the irrigation system is still in place.

## THE ANGLO SYSTEM

The concept of property has a different history in England than it had in the countries that remained loyal to the Pope. For Spain and France, government and church had a closer connection, and the Divine Right of Kings to have dominion over new lands was supported by Rome. But in England as early as the writing of the Magna Carta in 1215, land owners were securing private property giving rise to the English tradition of “A man’s home is his castle.”

British common law in those days was administered by judges and other barristers who learned the law by apprenticeship. Most law was made by precedent and was not necessarily written down. In 1769 Judge William Blackstone took it upon himself to catalog British law in the four volumes of *Commentaries on the Laws of England*. His interpretation became the basic text for land use law in the American colonies and the fledgling United States. While the colonies wanted to throw off the rule of England, they held the private property legacy near and dear.

Blackstone's interpretation of private property was that if an individual, almost always a man, owned property on the surface of the earth, he also owned and controlled everything to the center of the earth and out into the heavens. This wedge shape came to be known as "Blackstone's Wedge" and even today, land use lawyers refer to zoning and other ordinances that limit an owner's dominion as "chipping away at Blackstone's Wedge." This quaint notion turns out to have tremendous influence in US property law. It is the basis for laws concerning mineral rights, ground water and air rights. An owner has a right to sell these things separately because of Blackstone. Perhaps more profound was the notion of private ownership without allegiance to a king or a religion. Indeed, the new constitution forbade government from linking church and state. The owner was sovereign.

The land was vast, seemingly infinite, and in need of settlement. As we have seen before, settlement is a way of securing influence, and the new US government wanted to secure influence to fend off Spain, France, and later Mexico

and Russia. The difference in the Anglo and Native American ownership systems would have given rise to conflict even if the Anglos had seen the Native Americans as having claims of equal legal status with those of the French and Spanish.

What few voices there were that acknowledged the Native American claims were drowned by the concept of Manifest Destiny, the presumed inevitability of the sustained expansion of US boundaries westward to the Pacific Ocean. The term was coined by John L. O'Sullivan in 1845, in his statement of "...the fulfillment of our manifest destiny to overspread the continent allotted by Providence.." (see Encyclopedia Britannica under "Manifest Destiny"). This concept was embraced by politicians to justify the Mexican War and all sorts of violations of native claims.

The opportunities in the new land appealed to the younger brothers of English families and others who were landless, and the image of the rugged individualist appealed to the notion that one owes allegiance to no one, well maybe one's family. The emphasis of community, community responsibility, and a notion of common ownership of land was rare on the Anglo frontier and found primarily in the communities that strove to establish utopias based upon religious dogma.

As the population increases, we find ourselves ironically crowded on the frontier. We have by many folds exceeded the carrying capacity of the land in the Southwest, and we need to look at new ways to accommodate growth, new ways to build a sense of community. History and the concept of private ownership have a powerful influence and new approaches must realistically acknowledge that influence.

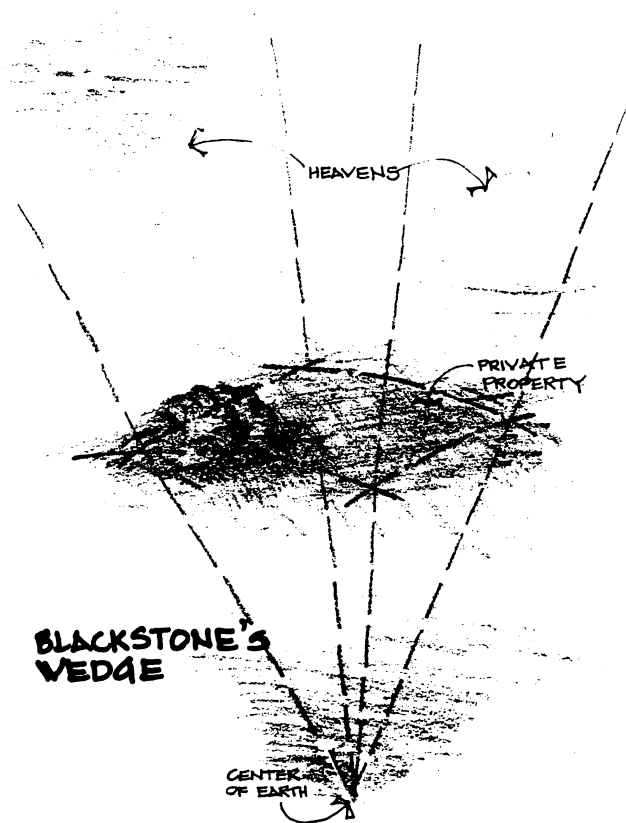
## CONCLUSIONS AND RECOMMENDATIONS

How can we use this information to guide us in a quest for more appropriate interventions in our design and teaching efforts? There are four concepts I wish to promote. The first two are:

- 1) Reciprocity with the land. We need a sense of common stewardship toward the land in exchange for the livelihood it provides.
- 2) Reciprocity with society. We need a sense of common responsibility to each other.

Reciprocity with the land requires a shift from thinking about land as real estate, wealth, or sphere of influence to land as habitat (Meinig, 1979). Every design we do and those we encourage students to do should in some way give something back to the land, restore it in some measure. To accomplish this we should adapt the Hippocratic Oath: "First do no harm. Next, do as little as possible to maintain health." In addition we need to realize our responsibility beyond the property line. We need to see a site as part of a larger physical system onto which a property line has historically and culturally been placed.

Reciprocity with society requires a shift from the attitude that "my home is my castle" to, at least, "yes, my home is my castle, but it would be nice to get together in a little plaza for a fiesta now and then, with or without horses." We need to



meet each other at a common market or forum. We need a sense of community and a place to acknowledge it. The sense of community must begin at the neighborhood scale. We need to design so that neighbors will meet each other in a place that belongs to them in common.

The third concept is as simple and fundamental as the first two. It is that everything we do has consequences; even doing nothing has consequences. Everything we design has some sort of impact on the land and society. Our design or management decision is not "How can we avoid making an impact?" It is, "Which impact will be the most benign and most beautiful?" We also have to realize that whatever we decide to do is always at the expense of alternative approaches. Awareness of forgone alternatives should be an important part of the decision making process.

Recalling the view of Earth from space, the fourth concept is the most fundamental of all. Regardless of our cultural or political history, we do not own Mother Nature, we are merely tenants here. If we wreck the place our lease, our tenure, will be revoked and we can no longer stay. To borrow

an idea from Ian McHarg, Mother Nature can make the necessary repairs on earth much more easily without us.

#### **BIBLIOGRAPHY**

- Birmingham, Ann, 1986, *Landscape and Ideology, The English Rustic Tradition, 1740-1860*, University of California Press, Berkeley.
- Crouch, Dora P., Garr, Daniel J., and Mundigo, Axel I., 1982, *Spanish City Planning in North America*, MIT Press, Cambridge, Massachusetts.
- Editors, "Sir William Blackstone," *Encyclopedia Britannica*, vol 2, 1985, p. 263.
- Jackson, J.B., 1979, "The Order of a Landscape, Reason and Religion in Newtonian America," in *The Interpretation of Ordinary Landscapes, Geographical Essays*, Meinig, D.W. Editor, Oxford University Press, New York.
- Meinig, D.W., 1979, *The Beholding Eye, Ten Versions of the Same Scene*, in *The Interpretation of Ordinary Landscapes, Geographical Essays*, Meinig, D.W. Editor, Oxford University Press, New York.
- Tuan, Yi-Fu, 1974, *Topophilia, A Study of Environmental Perception, Attitudes, and Values*, Prentice-Hall, Inc., Englewood Cliffs, New Jersey.