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## Can Nature Tourists Police Themselves? Comparing Eco-Pledges in the United States and Palau

Marcia Moana Levitan-Haffer

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# CAN NATURE TOURISTS POLICE THEMSELVES? COMPARING ECO-PLEDGES IN THE UNITED STATES AND PALAU

Marcia Moana Levitan-Haffar\*

INTRODUCTION .....	802
I. AN OVERVIEW OF THE PALAU PLEDGE.....	806
II. WHY THE PALAU PLEDGE SHOWS PROMISE .....	811
A. Palau Adopted Complementary Laws Specifically Aimed at Nature Tourists.....	811
B. Palau Attracts Environmentally Conscious Tourists by Marketing Palau as an Environmentally Conscious Destination .....	813
C. Palau Uses the Psychological Underpinnings of Requiring a Signature to Its Benefit.....	818
D. The Palau Pledge Incorporates Key Aspects of Community-Based Social Marketing (CBSM) Techniques.....	820
1. Gaining a Commitment .....	821
2. Establishing the Desired Behavior as a Social Norm, and Incorporating That Norm Through Social Diffusion .....	822
3. Providing Prompts .....	824
4. Communicating an Effective Message.....	825
5. Providing Incentives for Desirable Behavior.....	827
6. Ensuring the New Behavior Is Convenient.....	828
III. ECO-PLEDGES IN THE UNITED STATES: INCREASING EFFICACY BY ADOPTING ELEMENTS OF THE PALAU PLEDGE .....	829

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\* J.D. Candidate, 2022, University of Colorado Law School; B.A., 2013, Stanford University. This Comment is dedicated to Habibti. I am grateful to my family—especially my husband and my dad—for their unwavering support during law school and throughout life. I owe special thanks to those in Palau who taught me about their island and their culture. Many thanks also to Professor Richard Collins for his review of my work and to the excellent editors of the *University of Colorado Law Review*, especially Ming Lee Newcomb, Zach Greder, and Jason Mattie, for their valuable edits and suggestions. Any errors or oversights are my own.

A. An Overview of Eco-Pledges in the United States, with a Focus on Colorado .....	829
B. Adopt Regulatory Measures .....	832
C. Market Cities as Environmentally Conscious Destinations.....	834
D. Acquire a Signature, When Possible .....	835
E. Implement CBSM Techniques .....	836
CONCLUSION.....	839

## INTRODUCTION

Anyone who has visited the Pacific island nation of Palau<sup>1</sup> in the last few years has likely seen the in-flight video titled *The Giant*; it opens with a child singing a traditional Palauan song while vivid images of the island materialize.<sup>2</sup> Children run and play in their tropical home, but they are repeatedly interrupted by a cartoon giant who visits the island. The giant is tall, clumsy, and destructive of the surroundings—he represents irresponsible tourists.<sup>3</sup> Throughout the remainder of the video, the children teach the giant how to be more careful as he explores their home, warning him not to disturb the wild animals or walk on the coral.<sup>4</sup> By the end of the film, the giant is “living in harmony with [the children’s] land, ocean, and people.”<sup>5</sup> This video, part of a world-renowned marketing success,<sup>6</sup> is but a small piece in Palau’s larger plan of creating a sustainable market for nature-based tourism.

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1. The Republic of Palau is an archipelago consisting of over 300 islands occupying 459 square kilometers of dry land. See *Palau*, CIA WORLD FACTBOOK, <https://www.cia.gov/the-world-factbook/countries/palau> [https://perma.cc/NX87-LHN8] (Sept. 22, 2021). Its highest point is 242 meters above sea level, and fewer than 22,000 people inhabit the nation’s sixteen states. *Id.*

2. This video is viewable online. See Host Havas, *Palau Pledge THE GIANT Inflight Film*, YOUTUBE (Sept. 17, 2020), <https://www.youtube.com/watch?v=uzi-VtidDIPo> [https://perma.cc/3BDZ-XXL6].

3. *Id.*

4. *Id.*

5. *Id.*

6. See, e.g., *Palau Pledge Honored with D&AD’s Black Pencil Accolade of the Decade*, PALAUGOV.PW (Sept. 22, 2020), <https://www.palau.gov.pw/palau-pledge-honored-with-dads-black-pencil-accolade-of-the-decade> [https://perma.cc/6ZPW-VKNA] (noting the Palau Pledge campaign won the prestigious Black Pencil Award of the decade for encapsulating “an idea that drives positive change and has the potential to impact the world”).

Nature-based tourism—or “nature tourism” for short—is difficult to define but is adequately described for the purposes of this Comment as tourism that incorporates the “direct enjoyment of some relatively undisturbed phenomenon of nature.”<sup>7</sup> In actuality, nature tourism can become self-defeating; the more tourists that visit a location for its natural beauty, the more the beauty and culture is eroded by overuse, littering, commercialization, and more.

Several over-visited nature tourism locations around the globe serve as cautionary tales. For instance, the government of Nepal recently sought to remove twenty-two thousand pounds of waste from Mount Everest (including garbage, abandoned climbing gear, and human feces) left behind by those attempting to summit.<sup>8</sup> Iceland was forced to close a picturesque canyon to visitors after a surge of tourists caused erosion and vegetation damage by failing to observe marked pathways.<sup>9</sup> And the Galápagos Islands have experienced a cascade of new tourists in the past thirty years, leading to a boom in “budget-friendly” accommodations, threats of invasive species, and encroachment on the islands’ natural ecosystem, all of which threaten the very wildlife that draws visitors.<sup>10</sup>

Similarly, locations within the United States are vulnerable to tourism-induced environmental degradation. Coastal areas are particularly susceptible to damage. Over the years, tourism in Hawai‘i has degraded popular tourist sites and lost support from native Hawai‘ians; to make matters worse, the sector

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7. Mehmet Mehmetoglu, *Nature-Based Tourism: A Contrast to Everyday Life*, 6 J. ECOTOURISM 111, 112 (2007). Nature tourism incorporates other categories of tourism, “including ecotourism, adventure tourism, sustainable tourism and even cultural tourism.” *Id.* For more discussion on discerning between these different types of tourism, see Holly M. Donohoe & Roger D. Needham, *Ecotourism: The Evolving Contemporary Definition*, 5 J. ECOTOURISM 192 (2006).

8. *Trash and Overcrowding at the Top of the World*, NAT’L GEOGRAPHIC (Oct. 1, 2019), <https://www.nationalgeographic.org/article/trash-and-overcrowding-top-world> [<https://perma.cc/V6Y4-LBSK>].

9. *Visitors at Fjadrárgljúfur Canyon Causing Serious Damage to the Site*, ICE. MAG. (Apr. 3, 2018), <https://icelandmag.is/article/visitors-fjadrargljufur-canyon-causing-serious-damage-site> [<https://perma.cc/8X9B-ANQ4>].

10. Shivani Vora, *Is Land Tourism Threatening the Galápagos?*, N.Y. TIMES (June 1, 2018), <https://www.nytimes.com/2018/06/01/travel/galapagos-land-tourism-overtourism.html> [<https://perma.cc/G9RT-ZZL7>]; see also Veronica Toral-Granda & Stephen Garnett, *Galapagos Species Are Threatened by the Very Tourists Who Flock to See Them*, CONVERSATION (Oct. 30, 2017, 3:02 PM), <https://theconversation.com/galapagos-species-are-threatened-by-the-very-tourists-who-flock-to-see-them-86392> [<https://perma.cc/ND39-5ZAE>].

generates fewer dollars per tourist today than in the past.<sup>11</sup> Moreover, damage to national parks caused by noncompliant recreationists costs millions of dollars to repair.<sup>12</sup> In Zion National Park, one of the premier hikes sees “hundreds of people a day splash and wade their way up the riverbed”; these visitors “trample vegetation, aquatic insects, and fish habitat.”<sup>13</sup> The presence of nature tourists in Grand Teton National Park has altered elk and pronghorn behavior, making the animals less alert and putting them at higher risk of predation.<sup>14</sup> And after experiencing an extreme influx of tourists during the COVID-19 pandemic, the shores of Lake Tahoe became inundated with trash in 2020.<sup>15</sup>

Surveying these environmental crises illustrates the predicament of locales that depend on tourism dollars: How can they maintain tourism revenue while protecting the very environment that attracts the tourists?

In an attempt to solve this puzzle, a new trend has surfaced among many nature tourism locations around the world. Finding that the threat of punishment alone is insufficient to change consumer behavior, these locations are implementing what this

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11. PAUL BREWBAKER ET AL., *THE ECON. RSCH. ORG., AT THE UNIV. OF HAW., CHARTING A NEW COURSE FOR HAWAII TOURISM* 1–2 (2019), <https://uhero.hawaii.edu/wp-content/uploads/2019/08/ChartingANewCourseForHawaiiTourism.pdf> [<https://perma.cc/6L54-CBZF>]. It is worth noting that, if curated properly, organized ecotourism can help coastal areas by helping protect coral reefs and fish populations that might otherwise suffer without ecotourism protections. See Lina Zeldovich, *Can Eco-Tourism Save Coral Reefs?*, *JSTOR DAILY* (Aug. 13, 2019), <https://daily.jstor.org/can-eco-tourism-save-coral-reefs> [<https://perma.cc/Y2M5-WWG8>].

12. Darryll R. Johnson & Mark E. Vande Kamp, *Extent and Control of Resource Damage Due to Noncompliant Visitor Behavior: A Case Study from the U.S. National Parks*, 16 *NAT. AREAS J.* 134, 134–35 (1996). Research conducted in 1992 estimated human-caused damages totaling \$79.2 million. *Id.*

13. Jim Robbins, *How a Surge in Visitors Is Overwhelming America's National Parks*, *YALE ENV'T* 360 (July 31, 2017), <https://e360.yale.edu/features/greenlock-a-visitor-crush-is-overwhelming-americas-national-parks> [<https://perma.cc/SNJ9-CHH6>].

14. Benjamin Geffroy et al., *How Nature-Based Tourism Might Increase Prey Vulnerability to Predators*, 30 *TRENDS ECOLOGY & EVOLUTION* 755, 760 (2015). These wild animals relax their “antipredator defenses” as they become accustomed to nature tourists, which stay relaxed even when the tourists leave and can lead to easier predation. *Id.*

15. *Lake Tahoe Residents Lament Influx of Visitors Amid Pandemic*, *AP NEWS* (Aug. 13, 2020), <https://apnews.com/article/virus-outbreak-pandemics-south-lake-tahoe-f8fab200c6e774f17b21cc754828b7e7> [<https://perma.cc/VM6C-BWE7>].

Comment refers to as “eco-pledges.”<sup>16</sup> Each pledge differs in its precise elements but all ask tourists to promise to be respectful and sustainable in the way they explore the destination.<sup>17</sup> The pledges are completely voluntary in most places but still operate concurrently with local laws that provide fines, and occasionally jail time, for environmental degradation or resource misuse.<sup>18</sup> Of the existing eco-pledges, one promulgated by a small island nation in 2017 stands out from the rest: the Palau Pledge.

The Palau Pledge’s text is stamped in all tourists’ passports, which they must sign prior to passing through customs.<sup>19</sup> Palau reserves the right to fine tourists for breaking the Pledge, with the highest penalties reserved for individuals or entities that engage in illegal fishing practices.<sup>20</sup> It is better publicized than other pledges, both internationally and on the island itself. It also utilizes psychology-tested behavioral techniques to gain conformance with environmental best practices, which call attention to a sympathetic stakeholder—Palauan children—to create an emotional connection between the tourists and the island.<sup>21</sup> These techniques align with the reality that visitors are more likely to obey written promises that are easy to follow and

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16. Countries include New Zealand, Iceland, Finland, and Palau. See Elaine Glusac, *I Vow to Tread Lightly*, N.Y. TIMES (Sept. 25, 2019), <https://www.nytimes.com/2019/09/25/travel/tourism-pledges-sustainable-travel.html> [<https://perma.cc/US63-P4G7>]; *Take the Sustainable Finland Pledge*, VISITFINLAND.COM, <https://www.visitfinland.com/sustainable-finland-pledge/> [<https://perma.cc/77Z9-ZTY3>]. U.S. states include Hawai‘i. See ISLAND OF HAWAII PONO PLEDGE, <https://www.ponopledge.com> [<https://perma.cc/JGL8-2JHA>]. U.S. cities include Whitefish and Bozeman, Montana; Bend, and the Columbia River Gorge, Oregon; Sun Valley, Idaho; Big Sur, Mt. Shasta, and South Lake Tahoe, California; Ogden, Utah; Flagstaff, Arizona; and Steamboat Springs, Aspen, and Durango, Colorado. See PLEDGE FOR THE WILD, <https://www.pledgewild.com> [<https://perma.cc/7JUM-HNCH>]; *Big Sur Pledge*, COMMUNITY ASS’N OF BIG SUR, <https://www.cabigsur.org/big-sur-pledge> [<https://perma.cc/F7AC-YYA9>].

17. See, e.g., *Take the Icelandic Pledge*, VISIT ICELAND, <https://visiticeland.com/pledge> [<https://perma.cc/V3XK-Z5BY>]. Tourists who sign the Icelandic Pledge promise to “follow the road into the unknown, but never venture off the road.” *Id.*

18. See, e.g., Hannah Sampson, *Can Tourism ‘Pledges’ Help Keep Visitors on Their Best Behavior?*, WASH. POST (Oct. 24, 2019), <https://www.washingtonpost.com/travel/2019/10/24/can-tourism-pledges-help-keep-visitors-their-best-behavior> [<https://perma.cc/G9BB-DRML>]. Although “people can get fined for driving off the road, . . . that [fine is] not connected to the pledge.” *Id.*

19. PALAU PLEDGE, <https://palaupledge.com> [<https://perma.cc/3JRM-CJ3R>].

20. Palau National Marine Sanctuary Act of 2013, Repub. Palau Pub. L. No. 9-49, § 4 (codified as amended at 27 PNC § 181), <http://extwprlegs1.fao.org/docs/pdf/pau152765.pdf> [<https://perma.cc/76G9-PXWS>].

21. See *infra* Sections II.C, II.D.4.

frequently repeated.<sup>22</sup> Overall, the Palau Pledge serves as a model for other eco-pledges around the world.

This Comment is the first law review piece to examine such eco-pledges.<sup>23</sup> It argues that eco-pledges in the United States—those in existence and those that should be implemented in novel arenas—should incorporate elements from the Palau Pledge.

Part I sets the scene by examining the Palau Pledge in detail, providing necessary background for the remainder of the Comment. Part II explores several elements of human psyche, marketing, and legal enforcement, all of which maximize compliance with Palau's environmental protection laws and best practices. Part III then recommends how nature tourism locations in the United States should incorporate the elements of the Palau Pledge to make their own pledges more impactful.

## I. AN OVERVIEW OF THE PALAU PLEDGE

The outer shell of the Palau Pledge is simple: targeted mainly at tourists, it asks visitors to abide by a discrete list of best practices to protect the environment and support the locals.<sup>24</sup> However, beneath the shell, the meat of the Pledge is complex and pulls on many aspects of marketing, human psyche, and legal enforcement, all of which converge to influence consumers to act more responsibly toward the environment.

The Pledge began as a grassroots effort to improve the environment and blossomed into a revolutionary model for nature tourism locations everywhere to follow. It was the brainchild of four women with backgrounds in marketing and branding who approached Palau's first lady with a vision of transforming the country's tourism sector.<sup>25</sup> They forged the campaign's design to

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22. See *infra* Sections II.C, II.D.3, II.D.6.

23. A search on Westlaw of the following phrases turned up no prior literature or case law about the type of eco-pledge discussed in this Comment: "eco-pledge," "eco pledge," "ecopledge," "ecotourism pledge," "environmental pledge," "Palau Pledge," or "Pledge for the Wild."

24. See PALAU PLEDGE, *supra* note 19.

25. Ismael Lopez Medel, Commentary, *The Palau Legacy Pledge: A Case Study of Advertising, Tourism, and the Protection of the Environment*, 15 WESTMINSTER PAPERS COMM'N & CULTURE 178, 179 (2020).

resonate with all audiences, requiring tourists to promise the *children* of Palau that they will respect their island.<sup>26</sup>

Tourists' interaction with the Pledge begins before they set foot on the island. It takes advantage of having a captive audience, and all planes landing in Palau must show an in-flight video—the story of *The Giant*<sup>27</sup>—that informs tourists how they must behave.<sup>28</sup> Overall, the video takes a “soft, positive and emotional” tone to avoid lecturing to visitors.<sup>29</sup> It welcomes guests and invites them to be “not a mere spectator, but a participant” in ensuring Palau’s continued natural beauty.<sup>30</sup>

The Palau Pledge was the first in the world to be incorporated into a country’s customs and immigration process.<sup>31</sup> Thus, signing the Pledge is a mandatory part of any tourist’s trip to Palau. After landing, tourists are required to physically sign the Palau Pledge—stamped in their passports—to pass through customs and immigration at the airport and enter the country.<sup>32</sup> By signing, visitors promise the following:

Children of Palau, I take this pledge, as your guest, to preserve and protect your beautiful and unique island home. I vow to tread lightly, act kindly and explore mindfully. I shall not take what is not given. I shall not harm what does not harm me. The only footprints I shall leave are those that will wash away.<sup>33</sup>

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26. While this message was meant to appeal to tourists’ emotions, it also took aim at native Palauans so they would embrace the campaign as their own. *Id.* at 183.

27. See Host Havas, *supra* note 2; see also Medel, *supra* note 25, at 184–85.

28. The Responsible Tourism Education Act of 2018, Repub. Palau Pub. L. No. 10-30, § 3 (codified as amended at 13 PNC § 1012), <https://www.palau.gov/pw/wp-content/uploads/2018/10/RPPL-No.-10-30-re.-The-Responsible-Tourism-Education-Act-of-2018.pdf> [<https://perma.cc/Z2H4-HAS6>].

29. Medel, *supra* note 25, at 183.

30. *Id.* at 187.

31. PALAU PLEDGE, *supra* note 19.

32. The Responsible Tourism Education Act of 2018, *supra* note 28, § 2 (codified as amended at 13 PNC § 1009); see also Medel, *supra* note 25, at 183. The Palau Pledge creates an opportunity for any individual (not just tourists) to visit a website and sign the Pledge online. See PALAU PLEDGE, *supra* note 19. This Comment only analyzes the act of signing the Pledge prior to passing through customs.

33. Medel, *supra* note 25, at 184. An image of the passport stamp is found on the Palau Pledge website, and all tourists must physically sign their name beneath this promise as they pass through customs. PALAU PLEDGE, *supra* note 19. On the Palau Pledge website, there are eleven total “dos and don’ts” to help tourists uphold the Pledge. *Id.*



After passing through customs, visitors are not done interacting with the Pledge; through the Pledge's multi-sector partnership, tourists continue to encounter enforcement reminders throughout their stay.

The Palauan government is one key partner in the Palau Pledge. One foundational piece of legislation that established Palau as an environmental leader was the Palau National Marine Sanctuary Act, which passed in 2013.<sup>34</sup> Its primary focus was to preserve large areas of surrounding ocean, but it also incorporated penalties for any individual who "takes" fish without authorization.<sup>35</sup>

Building on this, Palau passed the Responsible Tourism Education Act of 2018, which regulates tourists' behaviors to better protect the environment.<sup>36</sup> In this Act, the Olbiil Era Kelalau—Palau's legislative body—acknowledged that "each person has a fundamental right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment."<sup>37</sup> It "invite[d] all visitors to become 'part of the solution' to environmental challenges in [Palau's] pristine paradise" and aimed to "adopt a comprehensive policy framework for a responsible tourism industry."<sup>38</sup> As part of its framework, the Act endorsed the use of the Pledge passport stamp<sup>39</sup> and the display of the in-flight video about the giant.<sup>40</sup> It also banned the manufacture and sale of reef-damaging sunscreen<sup>41</sup> and mandated that tour companies provide

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34. See Palau National Marine Sanctuary Act of 2013, *supra* note 20 (codified in scattered sections of 7 PNC and 27 PNC).

35. *Id.* § 2 (legislative findings designating 80 percent of the surrounding ocean as a "no-take area," which forbids any forms of fishing, and noting that "Palau's Constitution requires the national government to take 'positive action' to attain and implement the policy of 'conservation of a beautiful, healthful and resourceful natural environment'" and that "protecting Palau's waters is a superior and sustainable way of utilizing" Palau's fishing stock and other natural resources (quoting PALAU CONST. art. IV)); *id.* § 3 (codified as amended at 7 PNC § 207(a)) (authorizing penalties of \$500,000 to \$1,000,000 for unlicensed vessels engaging in illegal fishing); *id.* § 4 (codified as amended at 27 PNC § 182(c)) (authorizing the same penalties for shark fishing). Generally, Palau has been "one of the biggest innovators in terms of environmental concern," being the first country to create a national shark sanctuary. Medel, *supra* note 25, at 178, 180.

36. See Responsible Tourism Education Act of 2018, *supra* note 28 (codified in scattered sections of 11 PNC, 13 PNC, 24 PNC, 28 PNC).

37. *Id.* § 1 (legislative findings).

38. *Id.*

39. *Id.* § 2 (codified as amended at 13 PNC § 1009).

40. *Id.* § 3 (codified as amended at 13 PNC § 1012).

41. *Id.* § 5 (codified as amended at 24 PNC §§ 1271–73).

reusable food containers to tourists.<sup>42</sup> While recognizing that cross-agency cooperation was necessary to effectively implement the goals of the legislation,<sup>43</sup> it emphasized the importance of marketing Palau as a “high-value tourism destination with a high quality tourism product.”<sup>44</sup>

The executive branch praised the country’s nature tourism legislation as a positive step in the nation’s history of environmental conservation.<sup>45</sup> As the Responsible Tourism Education Act of 2018 made clear, it is the job of “all visitor-oriented government and quasi-government agencies to assist and participate in” the implementation of the Act, including the Pledge-related elements.<sup>46</sup> Moreover, the Palau Visitors Authority issues certificates to business that adhere to the Pledge principles.<sup>47</sup>

Local businesses, then, are another key partner in the Pledge, and the most dedicated companies receive certificates to display to signal their commitment to the environment and the Pledge.<sup>48</sup> Major tourist-facing operations post signs with sustainable tourism policies to maximize the likelihood of tourists seeing them.<sup>49</sup> And, by law, tour operators are required to provide reusable food and drink containers to tourists to serve as an “alternative to disposable plastic or polystyrene.”<sup>50</sup>

Finally, nongovernmental organizations (NGOs) are critical partners in Palau’s environmental initiatives, including the Palau Pledge. Before implementing the Pledge, the country consulted with the Pew Charitable Trusts to establish its expansive Palau National Marine Sanctuary.<sup>51</sup> The Pledge took root from

42. *Id.* § 4 (codified as amended at 11 PNC §§ 1615–16).

43. *Id.* § 6 (codified as amended at 28 PNC § 508(p)–(q)).

44. *Id.* § 7 (codified as amended at 28 PNC § 502).

45. Presidential Statement on Signing the Responsible Tourism Education Act of 2018, SERIAL NO. 18-818 (Oct. 25, 2018), <https://www.palau.gov.pw/wp-content/uploads/2018/10/RPPL-No.-10-30-re.-The-Responsible-Tourism-Education-Act-of-2018.pdf> [<https://perma.cc/Z2H4-HAS6>].

46. Responsible Tourism Education Act of 2018, *supra* note 28, § 7 (codified as amended at 28 PNC § 502).

47. Responsible Tourism Education Act of 2018, *supra* note 28, § 6 (codified as amended at 28 PNC § 508).

48. *Id.* § 6 (codified as amended at 28 PNC § 508(p)); *see also* Medel, *supra* note 25, at 187.

49. Eshan Kalyanikar, *BOT to Give Out One Sign for All Eco-Tourism Policies*, ISLAND TIMES (Sept. 13, 2019), <https://islandtimes.org/bot-to-give-out-one-sign-for-all-eco-tourism-policies> [<https://perma.cc/676J-66DS>].

50. Responsible Tourism Education Act of 2018, *supra* note 28, § 4 (codified as amended at 11 PNC §§ 1615–16).

51. *See* Ashleigh Cirilla, *Palau National Marine Sanctuary Goes into Effect*, PEW (Jan. 1, 2020), <https://www.pewtrusts.org/en/research-and-analysis/articles/>

this groundbreaking legislation, and a private marketing company sponsored the press campaign that followed.<sup>52</sup> Today, an NGO—Friends of the Palau National Marine Sanctuary—largely coordinates the progress of the Palau Pledge.<sup>53</sup>

Palau's efforts received substantial positive attention, with the Palau Pledge enjoying immense international marketing recognition. The Palau Pledge campaign won D&AD's prestigious Black Pencil of the Decade Award<sup>54</sup> for encapsulating "an idea that drives positive change and has the potential to impact the world."<sup>55</sup> Moreover, the Palau Pledge attracted the attention of celebrities and environmental conservationists, with actor Leonardo DiCaprio and Secretary of State John Kerry publicly endorsing the campaign.<sup>56</sup>

Similar to other eco-pledges generally, it is difficult to measure the Palau Pledge's impact.<sup>57</sup> According to one source, "96% of tourists said 'the pledge made them consider their actions more closely, and 65[%] said they used its principles during their stay to remind others about the right way to protect the delicate environment.'"<sup>58</sup> To gather further data, Palauan officials are working with professors from Cornell University to create measurement techniques that track the impact of the Pledge, though

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2020/01/01/palau-national-marine-sanctuary-goes-into-effect  
[<https://perma.cc/Q7VU-V6KA>].

52. Medel, *supra* note 25, at 181–82.

53. Telephone Interview with Jennifer Koskelin-Gibbons, Co-Founder, Palau Pledge (Oct. 14, 2020).

54. D&AD—short for Design & Art Direction—is a British “non-profit advertising and design association” that aims to “galvanise the creative communities and bring them together to inspire and celebrate the finest in design and advertising.” *About D&AD*, D&AD, <https://www.dandad.org/en/d-ad-global-creative-design-advertising-association> [https://perma.cc/36FA-THT7]. D&AD issues awards to entities that create impactful advertising schemes; its Black Pencil Award is an advertising “top honor and one of the most pursued accolades in the industry.” Larissa Faw, *D&AD's Coveted 2021 Black Pencil Awards Go to 3 Campaigns Built on Advocacy*, ADWEEK (May 27, 2021), <https://www.adweek.com/agencies/black-pencil-awards-go-to-campaigns-on-advocacy> [https://perma.cc/6THF-EECT]; see also Susan A. O'Sullivan-Gavin & Michelle A. Amazeen, *The Advertising Industry in the Social Media Age: The Ethical and Legal Implications of Unsanctioned Rogue or "Scam" Ads*, 22 J.L. BUS. & ETHICS 9, 14 (2016) (“Although advertising industry award competitions are numerous, the more prestigious include . . . D&AD.”).

55. *Palau Pledge Honored with D&AD's Black Pencil Accolade of the Decade*, *supra* note 6.

56. Medel, *supra* note 25, at 186.

57. See Glusac, *supra* note 16.

58. Medel, *supra* note 25, at 186.

it is too early to tell precisely what impact the Pledge has had on the environment.<sup>59</sup>

Yet, even without concrete data to confirm the Palau Pledge's impact on the environment, several aspects of its operation make it more promising than eco-pledges that exist in the United States. The next Part reviews key components of the Pledge that have successfully affected human behavior in other contexts.

## II. WHY THE PALAU PLEDGE SHOWS PROMISE

This Part identifies aspects of the Palau Pledge that make it especially effective in changing nature tourists' behaviors: (A) complementary laws aimed specifically at regulating tourists, (B) marketing techniques that draw environmentally conscious visitors, (C) psychological underpinnings of asking tourists for a signed commitment to the Pledge, and (D) community-based social-marketing (CBSM) techniques implemented throughout the Pledge's operation.

### A. *Palau Adopted Complementary Laws Specifically Aimed at Nature Tourists*

Many commentators criticize environmental laws because "control of individual behavior has been largely absent from environmental legislation, which [instead] generally targets *industrial* sources of environmental harm."<sup>60</sup> Thus, such laws are largely insufficient in regulating the individual behavior of nature tourists.<sup>61</sup>

Palau's laws are different. The country's legislature passed several laws aimed at making the tourism sector more

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59. Telephone Interview with Jennifer Koskelin-Gibbons, *supra* note 53. Of note, this problem is not unique to Palau; environmental-outcome data linked to nature tourism efforts are often under-studied. See, e.g., Cassandra Wardle et al., *Ecotourism's Contributions to Conservation: Analysing Patterns in Published Studies*, 20 J. ECOTOURISM 99, 113 (2021) ("[E]cotourism does indeed have a significant role to play in the conservation of biodiversity," but "evaluations of each specific [ecotourism measurement] outcome are sparse.").

60. Amanda L. Kennedy, *Using Community-Based Social Marketing Techniques to Enhance Environmental Regulation*, 2 SUSTAINABILITY 1138, 1141 (2010) (emphasis added).

61. The United States has adopted national environmental laws, which are not aimed specifically at nature tourists. See *infra* Section III.B and accompanying footnotes (describing applicable U.S. laws).

environmentally friendly. Primarily, the Responsible Tourism Education Act of 2018 regulates individual tourists' behaviors to better protect the environment.<sup>62</sup> In addition, the Palau National Marine Sanctuary Act, passed in 2013, focuses mainly on preserving large areas of surrounding ocean but also incorporates penalties for individuals (including tourists) who engage in unauthorized fishing practices.<sup>63</sup>

Indeed, a large body of research suggests that laws by themselves can influence individuals' behaviors. Two main theories explain what causes these behavior shifts.<sup>64</sup> Most prominent is the theory of deterrence, where people are "motivate[ed] to comply through fear of penalty or punishment for non-compliance."<sup>65</sup> Yet, this theory does not fully account for scenarios where the government does not widely enforce its regulations.<sup>66</sup> In the context of environmental degradation, individual behaviors that harm the environment are particularly difficult to enforce; thus, the law's deterrent effects alone likely do not compel significant behavior change.<sup>67</sup>

A separate philosophy is the theory of legitimacy, where "a person's actions might be guided by the belief in the existence of a legitimate order"—the order provided by the law.<sup>68</sup> Under this framework, "violation [of the law] would be abhorrent to [a person's] sense of duty," which compels compliance.<sup>69</sup> Although these two theories are often seen as competing, social scientists and economists believe they can operate in tandem.<sup>70</sup>

In the environmental space, it is generally recognized that legislation targeting individual behavior is necessary to "provide[] some guidance as to effective environmental regulatory design to engage individuals."<sup>71</sup> Yet, it is equally recognized that

62. See *supra* notes 36–47 and accompanying text.

63. See, e.g., Palau National Marine Sanctuary Act of 2013, *supra* note 20, § 4 (codified as amended at 27 PNC § 182) (authorizing penalties of at least \$500,000 for breaking the provisions of the statute).

64. Commentators have proposed additional reasons to explain why the law changes behavior. This Comment does not exhaustively account for these varying theories, but instead briefly mentions a few to illustrate that laws have *some* tendency to influence behaviors.

65. Kennedy, *supra* note 60, at 1139.

66. See *id.* at 1140.

67. See *id.* at 1139.

68. RICHARD H. MCADAMS, *THE EXPRESSIVE POWERS OF LAW: THEORIES AND LIMITS* 3 (2015) (internal quotation marks omitted).

69. *Id.* at 3.

70. See *id.* at 4.

71. Kennedy, *supra* note 60, at 1142.

localities should adopt “a combination of regulatory and non-regulatory approaches” to achieve higher compliance rates with wilderness regulations and best practices.<sup>72</sup>

Overall, then, Palau’s environmental laws likely have some tendency to cause tourists to act more responsibly than they would otherwise, and they serve as a necessary foundation for the Palau Pledge to build on. The rest of this Part discusses the Pledge’s non-regulatory elements that are necessary to change nature tourists’ behaviors.

*B. Palau Attracts Environmentally Conscious Tourists by Marketing Palau as an Environmentally Conscious Destination*

Palau is no stranger to environmental degradation from tourism. In the past, tourism made up more than half of Palau’s gross domestic product (GDP),<sup>73</sup> and although that percentage has decreased today,<sup>74</sup> tourism is still the leading industry.<sup>75</sup> Thus, Palau’s environmental health is heavily impacted by the number and type of visitors it attracts. In the past, Palau attracted too many tourists who damaged the environment, and as a result, it now consciously markets to tourists who value environmental protection and cultural preservation.

Around 2014 and 2015, Palau experienced a form of “overtourism” that had severe negative consequences on the island’s environment and infrastructure. Around that time, the island

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72. *Id.* at 1138–39.

73. IMF, *Republic of Palau: Selected Issues*, IMF Country Report No. 14/111, at 21 fig.1 (May 2014).

74. *Initial Economic Impact of COVID-19 Reported for Micronesia, the Marshall Islands, and Palau*, U.S. DEP’T INTERIOR, <https://www.doi.gov/oia/press/initial-economic-impact-covid-19-reported-micronesia-marshall-islands-and-palau> [<https://perma.cc/BSL7-C24R>] (Nov. 30, 2020) (estimating tourism constituted 20 percent of GDP in 2019).

75. See BUREAU OF TOURISM, MINISTRY OF NAT. RES., ENV’T & TOURISM, PALAU RESPONSIBLE TOURISM POLICY FRAMEWORK 8 (2016), [https://www.palau.gov/wp-content/uploads/2017/04/Final\\_Palau-Responsible-Tourism-Framework1.pdf](https://www.palau.gov/wp-content/uploads/2017/04/Final_Palau-Responsible-Tourism-Framework1.pdf) [<https://perma.cc/Q7YT-S3FF>]; IMF, *Republic of Palau: 2018 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for the Republic of Palau*, IMF Country Report No. 19/43, at 4 (Feb. 2019). It is difficult to derive an exact percentage of tourism-related GDP due to large fluctuations in Palau’s tourism year to year. For example, due to COVID-19, Palau completely closed its borders to tourism for most of 2020. Thus, the tourism-related GDP during 2020 will be substantially decreased. See *Visitor Arrivals*, PALAUGOV.PW, <https://www.palau.gov/pw/executive-branch/ministries/finance/budgetandplanning/immigration-tourism-statistics> [<https://perma.cc/WG3L-QNXC>].

hosted a surge of tourists, with the main increase coming from China.<sup>76</sup> Many of these tourists were first-time travelers who purchased prepaid tour packages from foreign tour operators with little experience operating in Palau.<sup>77</sup> While these prepaid packages brought many visitors, in-country spending decreased and Palau gained little profit from the newcomers.<sup>78</sup> Moreover, the high flow of additional bodies caused damage and overcrowding at popular tourism sites, overwhelmed Palau's infrastructure, and displaced residents.<sup>79</sup>

In response, the island adopted the Palau Responsible Tourism Policy Framework.<sup>80</sup> This framework recognized the need to abandon its image as a "low-budget sun-and-sea" destination, and instead target a specific type of tourist—the high-end "free independent traveler"—who visits to birdwatch, learn about cultural heritage, engage in nature tourism, or take advantage of other niche markets.<sup>81</sup> This plan was codified within the Responsible Tourism Education Act of 2018.<sup>82</sup> The Act reiterates the need to market a "'Pristine Paradise Palau' . . . that is environmentally friendly" and that provides a high-quality product to tourists.<sup>83</sup>

In line with this marketing call, the Palau Pledge took hold. Its creators carefully designed the campaign to appeal to wide audiences,<sup>84</sup> using children as the Pledge's recipients and weaving cultural storytelling into the narrative.<sup>85</sup> However, the

76. IMF, *supra* note 75, at 17 fig.1.

77. BUREAU OF TOURISM, *supra* note 75, at 8.

78. *See id.*

79. *Id.* at 8, 10. Additionally, most of the jellyfish in Palau's world-famous Jellyfish Lake mysteriously disappeared. Years later, after conducting research, scientists largely attribute the disappearance to an overflow of tourists swimming in the lake with toxic sunscreen, which leaked chemicals into the water and killed the jellyfish. *See, e.g.*, LORI J BELL ET AL., FINAL REPORT: SUNSCREEN POLLUTION ANALYSIS IN JELLYFISH LAKE 2 (2017), <https://coralreepalau.org/wp-content/uploads/2017/10/CRRF-UNESCO-Sunscreen-in-Jellyfish-Lake-no.2732.pdf> [<https://perma.cc/5XGG-PFTZ>].

80. *See* BUREAU OF TOURISM, *supra* note 75.

81. *Id.* at 7, 14.

82. Responsible Tourism Education Act of 2018, *supra* note 28, § 7 (codified as amended at 28 PNC § 502).

83. *Id.*

84. Of note, the Palau Pledge passport stamp comes in five languages—English, Chinese, Taiwanese, Japanese, and Korean—corresponding with the "critical inbound visitors' markets of the island." Medel, *supra* note 25, at 184.

85. *Id.* at 182 ("[T]he campaign's underlying spirit was the local love and respect for the environment . . . [as Palauans] have been custodians of a culture of conservation for millennia." (internal quotation marks omitted)); *see also id.* at 183

women behind the campaign identified a more precise target audience to attract to the island: tourists who seek sustainable travel and respect environmental stewardship.<sup>86</sup> Overall, these women hoped the campaign would draw travelers who would police themselves and act delicately toward the environment, rather than tourists who require close monitoring.<sup>87</sup>

This strategy shows great promise. As noted by advertising researchers, “It is well accepted in the marketing field that consumers patronise products and services with images congruent to their self-perception.”<sup>88</sup> Thus, those with a robust self-perception of protecting the environment are more likely to vacation somewhere that prioritizes environmental protection—somewhere like Palau.

Relatedly, some tourists choose their vacations to make a statement in line with their political beliefs.<sup>89</sup> This applies to individuals whose politics prioritize environmental protection. As one commentator suggests, “[E]cotourists are more than just consumers—they are engaging in a life political strategy through ‘ethical’ consumption choices to promote a favoured development path for the destination.”<sup>90</sup> At one extreme, individuals who want to “make a real difference” on their vacation select locations that allow them to give back to the locality;<sup>91</sup> the prototypical example is the “gap year project,” where individuals travel to an impoverished country for an extended period to assist the community.<sup>92</sup> At a lesser extreme, individuals travel to locations to have a “backstage” look at the culture and to support the locals “in [their] way of life.”<sup>93</sup>

Although Palau does not market itself as a gap-year destination, tourists may well travel there because the nation’s strong environmental policies and cultural supports align with their personal politics. For instance, Palau proudly represents

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(“[B]y asking visitors to do something for Palau’s children, [the Pledge team members] ensured the emotional, human cut-through they wanted.”).

86. Telephone Interview with Jennifer Koskelin-Gibbons, *supra* note 53.

87. *Id.*

88. Scott A. Cohen et al., *Consumer Behavior in Tourism: Concepts, Influences and Opportunities*, 17 *CURRENT ISSUES TOURISM* 872, 883 (2014).

89. See generally Jim Butcher, *Ecotourism as Life Politics*, 16 *J. SUSTAINABLE TOURISM* 315 (2008). The term “political” in this context refers to the general beliefs a person holds rather than to political parties.

90. *Id.* at 318.

91. See *id.* at 321–22.

92. See *id.*

93. See *id.* at 321.



itself as a world leader in conservation and sustainability. On top of the initiatives mentioned above,<sup>94</sup> Palau recently announced a plan to become a “carbon neutral destination.”<sup>95</sup> To do this, it plans to partner with prominent nonprofit organizations to “increas[e] the proportion of food that is sourced from local producers and reduc[e] the industry’s dependence on imports.”<sup>96</sup> This will simultaneously “celebrat[e] the islands’ gastronomic heritage and build[] the capacity of farmers and fishers to market their products to tourists.”<sup>97</sup> Palau also plans to start a “carbon management program” where tourists’ contributions to the program would fund “blue carbon initiatives,” such as restoring mangrove forests and developing projects that reduce carbon emissions.<sup>98</sup> And, Palau’s overarching tourism strategy prioritizes the development of locally owned businesses by “facilitat[ing] local entrepreneur entry into the [tourism] industry.”<sup>99</sup> Thus, for nature tourists who aim to make a difference with their vacation, the Palau Pledge campaign (and the country’s closely related initiatives) will likely resonate and draw them to the island. Such tourists would likely feel confident that visiting Palau would support environmental protection, offset their carbon footprint, and contribute to cultural strengthening and local business development.<sup>100</sup>

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94. See *supra* notes 80–87 and accompanying text.

95. *Project to Make Palau a Carbon Neutral Destination Launched by Palau Bureau of Tourism, Sustainable Travel International, and Slow Food*, PALAUGOV.PW (Aug. 11, 2020), <https://www.palau.gov.pw/project-to-make-palau-a-carbon-neutral-destination-launched-by-palau-bureau-of-tourism-sustainable-travel-international-and-slow-food> [<https://perma.cc/9HFP-496E>].

96. *Id.*

97. *Id.*

98. *Id.*; *Palau to Become World’s First Carbon Neutral Tourism Destination*, GLOBETRENDER (Nov. 5, 2020), <https://globetrender.com/2020/11/05/palau-worlds-first-carbon-neutral-tourism-destination> [<https://perma.cc/S8W4-E5B8>].

99. BUREAU OF TOURISM, *supra* note 75, at 34.

100. As researchers have pointed out, there exists a “so-called ‘attitude-behavior gap’, in which consumers attest to caring about ethical standards in their consumption practices, but few reflect these standards in their actual purchase decisions.” Cohen et al., *supra* note 88, at 892. Thus, one might argue that entrusting self-identified sustainable travelers to *act* sustainably is insufficient, since their actions might not match their beliefs. However, the Palau Pledge does not stop at drawing these tourists to the island; rather, it incorporates many interconnected elements to continually nudge tourists to follow environmental best practices throughout their stay in Palau. These elements are discussed in the remainder of this Part.

Of note, there exists a large body of critical commentary regarding the promotion of “ecotourism”<sup>101</sup>—a subset of nature tourism that more heavily emphasizes ethical travel, environmental education, and local community benefit.<sup>102</sup> Critics label this kind of marketing “greenwashing,” adequately described as “making unwarranted or overblown claims of sustainability or environmental friendliness in an attempt to gain market share.”<sup>103</sup> Deceitful greenwashing is typically done by *companies* that are “striv[ing] to meet escalating consumer demand for greener products and services.”<sup>104</sup> One commentator observed that “ecotourism is worthy in principle but people lack the principle to put it into operation.”<sup>105</sup> Yet, the nation of Palau has proven that it embodies the principle needed to promote sustainable tourism. The country is internationally recognized for its sincere efforts to improve the natural habitat,<sup>106</sup> and it has repeatedly passed legislation in support of environmental protection.<sup>107</sup> Thus, based on its efforts to date, the Palau Pledge campaign should not be considered greenwashing.

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101. Butcher, *supra* note 89, at 319.

102. See Donohoe & Needham, *supra* note 7, at 194–95 (discussing the many principles and tenets scholars have used to define “ecotourism” but noting how scholars have not coalesced around a concrete definition); see also Sarah Krakoff, *Mountains Without Handrails . . . Wilderness Without Cellphones*, 27 HARV. ENV’T L. REV. 417, 450 (2003) (stating that ecotourism financially supports “the protection and management of natural areas” rather than simply visiting such areas).

103. Richard Dahl, *Green Washing*, 118 ENV’T HEALTH PERSPS. A246, A247 (2010), <https://ehp.niehs.nih.gov/doi/pdf/10.1289/ehp.118-a246> [<https://perma.cc/2TG7-UZZJ>].

104. *Id.* For example, the Shell Oil Company engaged in greenwashing by promoting a Canadian oil sands project as “sustainable” when, in reality, it had no evidence supporting its claim. *Id.* at A248. And, competing indoor cleaning product companies trying to increase their sales are “among the worst greenwash offenders,” claiming their products do not harm the environment when the inverse may be true. *Id.* at A250.

105. Butcher, *supra* note 89, at 319.

106. See, e.g., PEW CHARITABLE TRS., PALAU NATIONAL MARINE SANCTUARY 3 (2015), [https://www.pewtrusts.org/-/media/assets/2018/03/gol\\_palau\\_national\\_marine\\_sanctuary.pdf](https://www.pewtrusts.org/-/media/assets/2018/03/gol_palau_national_marine_sanctuary.pdf) [<https://perma.cc/8TGQ-6XAQ>] (describing the Palau National Marine Sanctuary as “[g]ood for the economy,” “[g]ood for tourism,” and “[g]ood for the environment”); *Palau Pledge Honored with D&AD’s Black Pencil Accolade of the Decade*, *supra* note 6 (awarding the prestigious Black Pencil Award to the Palau Pledge for encapsulating “an idea that drives positive change and has the potential to impact the world”).

107. See, e.g., Palau National Marine Sanctuary Act of 2013, *supra* note 20 (codified in scattered sections of 7 PNC and 27 PNC); Responsible Tourism Education Act of 2018, *supra* note 28 (codified in scattered sections of 11 PNC, 13 PNC, 24 PNC, 28 PNC).

C. *Palau Uses the Psychological Underpinnings of Requiring a Signature to Its Benefit*

As discussed above, visitors who travel to Palau must present their passport to customs, receive a stamp that contains a promise to practice environmentally responsible behavior, and then apply their signature to agree to the stamp's terms.<sup>108</sup> The simple act of applying one's signature likely increases the probability of tourists following the Pledge.

The psychological underpinnings of signing an agreement are well-illustrated by the statute of frauds within the field of contract law. Under the statute, as a general rule, a contract is not enforceable in court unless "signed by the party against whom enforcement is sought."<sup>109</sup> Such a requirement is important because applying one's signature "bring[s] home . . . the significance of the promise and prevent[s] ill-considered and impulsive promises."<sup>110</sup> Stated another way, "[i]f people must go through a formal ceremony to create legal relationships, the ceremony may warn them that they are doing something serious and important."<sup>111</sup>

In the context of the Palau Pledge, when tourists sign their names in their passports, they do not enter into the type of contract contemplated by the statute of frauds. Nevertheless, applying a signature forces travelers to confront a similar psychological process, adding gravity to their written agreement to "tread lightly, act kindly and explore mindfully."<sup>112</sup> At the very least, requiring a signature forces the signer to pay more attention than passively providing information about the Pledge.

Additionally, the act of signing one's name can change the way a person behaves. This is likely because signing one's name is a "highly expressive activity," as people associate their signatures with their unique identities.<sup>113</sup> Research suggests that "people are more likely to engage in a behavior once they have

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108. Responsible Tourism Education Act of 2018, *supra* note 28, § 2 (codified as amended at 13 PNC § 1009).

109. E. ALLAN FARNSWORTH, *CONTRACTS* 391 (4th ed. 2004).

110. *Id.* at 356.

111. John Kidwell, *Ruminations on Teaching the Statute of Frauds*, 44 ST. LOUIS U. L.J. 1427, 1429 (2000).

112. See PALAU PLEDGE, *supra* note 19.

113. Keri L. Kettle & Gerald Häubl, *The Signature Effect: Signing Influences Consumption-Related Behavior by Priming Self-Identity*, 38 J. CONSUMER RSCH. 474, 475 (2011).

signed a document that indicates their intention to do so.”<sup>114</sup> Evidence from multiple studies showed that subjects who signed their name were more likely to engage in behavior “congruent with the specific aspect of [their] self-identity” presented during the study.<sup>115</sup> In one of the studies, subjects either signed or printed their names on a piece of paper in conjunction with identifying an “in-group” to which they belonged.<sup>116</sup> Those who signed their name reported feeling a stronger connection to that in-group than the individuals who only printed their names.<sup>117</sup>

Thus, for those nature tourists who identify as environmentally responsible travelers, signing the Palau Pledge may bolster this identity. By signing a statement that they will act in environmentally conscious ways, tourists are more likely to do so. And, to enhance visitors’ dedication to the Pledge, their signatures must be added directly into their own passports—a personal item that is “carried everywhere; by integrating the campaign directly into [the] document, it become[s] intimate and powerful.”<sup>118</sup>

Of note, some commentators believe the signature has become a “meaningless scrawl” with the proliferation of technology that ubiquitously captures electronic or finger-drawn autographs.<sup>119</sup> However, such commentaries largely focus on the *legal* import of signatures rather than the *psychological* impact of signing one’s name on a hard-copy document.<sup>120</sup> With that in

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114. *Id.* at 485.

115. *Id.* at 484.

116. *Id.* at 480.

117. *Id.* at 480–81.

118. Medel, *supra* note 25, at 184.

119. See, e.g., Tim Dowling, *Sign of the Times: How the Signature Became a Meaningless Scrawl*, GUARDIAN (Sept. 4, 2019, 12:05 AM), <https://www.theguardian.com/news/shortcuts/2019/sep/04/sign-times-signature-scrrawl-law-commission> [<https://perma.cc/J5YF-DHZQ>].

120. *Id.* The Palau Pledge website allows any individual in the world to “sign” the Pledge online, mainly to demonstrate support of the country’s dedication to protecting the environment. Importantly, this is a separate process than passing through customs and signing one’s passport. Commentators note that signing something over the internet lessens the psychological weight of the agreement. See Michael J. Hays, Note, *The E-Sign Act of 2000: The Triumph of Function over Form in American Contract Law*, 76 NOTRE DAME L. REV. 1183, 1206 (2001) (“[T]he click of a mouse is extremely casual and non-deliberative. Thus, because electronic transactions differ in this important respect—the cautionary function—legislation creating a computerized legal formality must take affirmative steps to preserve formal functions that thrived naturally in the ink-and-pen world.”). Thus, physically signing one’s passport should remain a necessary part of the Palau Pledge to preserve the signature’s cautionary function.

mind, the Palau Pledge's signature requirement likely remains an impactful element to increase tourists' adherence to environmental best practices—after all, signing one's passport at Palau's customs and immigration checkpoint is more serious than, for example, signing an e-receipt at a restaurant.

*D. The Palau Pledge Incorporates Key Aspects of Community-Based Social Marketing (CBSM) Techniques*

As outlined above, tourism laws and regulations specifying how tourists must behave are insufficient by themselves to effect behavioral changes.<sup>121</sup> Rather, localities should adopt “a combination of regulatory and non-regulatory approaches” to achieve higher tourist compliance rates with wilderness regulations and best practices.<sup>122</sup> Palau utilizes such a model. This Section examines the non-regulatory components of the Palau Pledge and compares them to CBSM techniques.

In the context of environmental protection, CBSM uses “social marketing” to target individuals' specific behaviors that most degrade the environment.<sup>123</sup> For example, CBSM can increase proper recycling and composting habits.<sup>124</sup> Commentators suggest that CBSM shows promise to facilitate compliance with rules or regulations because it “affect[s] actual attitudinal and behavioral change by taking an *interactive* approach to information delivery, employing behavioral changes tools drawn from social science research.”<sup>125</sup> The remainder of this Section examines CBSM's strategies: (1) gaining a commitment, (2) establishing and diffusing social norms, (3) providing prompts, (4) communicating an effective message, (5) providing incentives, and (6) ensuring the desired behaviors are convenient.

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121. See *supra* notes 64–72 and accompanying text.

122. See Kennedy, *supra* note 60, at 1138.

123. See *id.* at 1139.

124. PENN SUSTAINABILITY, YOUR QUICK GUIDE TO COMMUNITY-BASED SOCIAL MARKETING 1, <https://www.sustainability.upenn.edu/sites/default/files/Guide%20to%20Community-Based%20Social%20Marketing.pdf> [<https://perma.cc/QG63-JNL8>].

125. See Kennedy, *supra* note 60, at 1142 (emphasis added).

## 1. Gaining a Commitment

The first strategy emphasized by CBSM is to gain a commitment from an individual to engage in a particular behavior in the future.<sup>126</sup> The idea behind this CBSM technique is that “[a]greeing to [an initial] request . . . greatly increase[s] the likelihood that [a person will] subsequently consent” to later behavior that aligns with the initial request, even when the later behavior constitutes a larger commitment.<sup>127</sup> The technique does not necessarily require gaining a signature, as discussed above in Section II.C; therefore, this CBSM theory builds upon the psychological underpinnings of requiring a person’s signature.

An initial request for a commitment should be made in person rather than being posted on a sign.<sup>128</sup> Moreover, someone should commit in writing rather than committing only verbally<sup>129</sup> and should commit in public if possible; in fact, even *asking* to publicize a person’s commitment, without actually publishing it, leads to behavior changes.<sup>130</sup> Of note, these commitments are most effective when they are voluntary, as “research suggests that commitment will not work if the person feels pressured to commit.”<sup>131</sup>

The Palau Pledge incorporates promising elements of securing commitments; *all* tourists who pass through customs make this initial commitment in writing by signing the stamp in their passports. However, the Pledge lacks some important aspects of effective commitments. First, signing the Pledge is a coerced commitment, mandated by the government of Palau, which may decrease its effectiveness in changing tourists’ behaviors. Second, the request is not truly made in person, since it is stamped

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126. See DOUG MCKENZIE-MOHR, *FOSTERING SUSTAINABLE BEHAVIOR: AN INTRODUCTION TO COMMUNITY-BASED SOCIAL MARKETING* 45–61 (3d ed. 2011).

127. See *id.* at 45–46.

128. See *id.* at 50–51 (describing a case study in which asking individuals to turn off their engines reduced engine idling frequency by 32 percent and duration by 73 percent, whereas posting a sign requesting individuals to turn off their engines (without more) had no effect on engine idling).

129. See *id.* at 52.

130. See *id.* at 53–54 (describing a case study in which asking permission to publicize consumers’ reduced use of natural gas and electricity, without actually publishing the commitments, resulted in “a 15% reduction in natural gas used and a 20% reduction in electricity used”).

131. *Id.* at 55.

in the tourist's passport.<sup>132</sup> Finally, tourists' names are not publicized after they sign the Palau Pledge. All of these elements might detract from the effectiveness of gaining tourists' commitments to abide by the Pledge.

Yet, there are reasons to believe that mandating tourist signatures is still effective. Since the mandate comes from the government, it lends credibility to the Pledge.<sup>133</sup> Moreover, since everyone is required to abide by the Pledge, it supports the creation of a social norm—a powerful driver of behavior in itself, as discussed below.<sup>134</sup>

To incorporate a commitment request more in-line with the CBSM techniques, Palau could also experiment with incorporating subsequent voluntary commitments after a person passes through customs. For example, when tourists check into a hotel, the clerk could ask them to commit to shopping from local businessowners. Or, before a tourist boards a scuba tour boat, the captain could ask each person to recommit to not standing on the coral.

## 2. Establishing Desired Behaviors as Social Norms, and Incorporating Norms Through Social Diffusion

The next two strategies emphasized by CBSM require establishing the desired behavior as a social norm,<sup>135</sup> then taking steps to ensure the norm undergoes social diffusion.<sup>136</sup> Research shows that “people look[] to the behavior of those around them to determine how” to behave themselves.<sup>137</sup> Simply providing information about what social norms exist can help reinforce such norms and change behavior.<sup>138</sup> Witnessing others engaging in

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132. It is true that a person must interact with an agent as they pass through customs. However, these agents do not verbally request that individuals abide by the Palau Pledge. If such verbal requests were incorporated into the customs process, it might lead to more desirable behavior change. Granted, practical barriers would arise if a tourist spoke a language unknown to a customs agent, but the idea may be worth exploring.

133. See *infra* notes 160–161 and accompanying text (discussing credibility of messaging).

134. See discussion *infra* Section II.D.2 (discussing social norms).

135. See MCKENZIE-MOHR, *supra* note 126, at 61–72.

136. See *id.* at 73–82.

137. *Id.* at 62.

138. *Id.* at 66–67 (recounting case study in which signs posted in hotel rooms stating the percentage of individuals who reused their towels led to higher rates of towel reuse).

these behaviors, however, further increases the likelihood of adopting new behaviors.<sup>139</sup> Thus, officials can work with individuals in the community and ask them to publicly demonstrate their compliance with the norms, which others are then more likely to copy.<sup>140</sup>

The Palau Pledge is largely built to establish social norms so tourists “police themselves.”<sup>141</sup> As already discussed, the norms are well-publicized; they appear in the Pledge itself and on signs around the island,<sup>142</sup> and are established in the laws of the country.<sup>143</sup> Businesses also follow the Pledge requirements and display compliance certifications for tourists to see.<sup>144</sup> Officials may be able to expedite the adoption of desired social norms by working with individual tourists to display certain behaviors. For example, guests who check into a hotel room could be asked to pick up a small number of littered items at the beach, which other tourists might copy. Palauan tour companies could also participate by sponsoring garbage-pickup events as a sustainability activity.<sup>145</sup>

Palau Pledge officials are currently working with researchers to develop indicators for measuring whether the campaign is changing individuals’ behaviors.<sup>146</sup> Studying the adoption of the behaviors should be one of the metrics.

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139. *Id.* at 62–63 (recounting case study in which a person in a locker room shower, surrounded by individuals who conserved water, led to the individual turning off the water more often than simply seeing a written request to conserve water).

140. For example, in one study, farmers were losing topsoil from their farms but failed to adopt the government’s suggested erosion-slowing actions explained in brochures. Later, the government worked directly with a small number of farmers to plant trees on their land to slow erosion, which led to many more farmers planting trees after they witnessed others doing so. *Id.* at 74.

141. Medel, *supra* note 25, at 183.

142. Kalyanikar, *supra* note 49.

143. Past case studies have demonstrated that the observed “changes in behavior . . . were not brought about by punitive measures.” MCKENZIE-MOHR, *supra* note 126, at 63. This suggests that, although Palau has laws that authorize punishing tourists for deviating from the Pledge’s mandates, officials need not enforce these laws to change tourists’ behaviors. Nevertheless, these laws likely play an important role in demonstrating that protecting the environment is a social norm.

144. *See supra* notes 47–49 and accompanying text.

145. One Norwegian company has implemented such a program. *See* Giovana Bertella et al., *Let’s Zing: Engaging Tourism Companies and Tourists in Ocean Plastic Clean-up*, 19 J. ECOTOURISM 73, 73–80 (2020).

146. Telephone Interview with Jennifer Koskelin-Gibbons, *supra* note 53.



### 3. Providing Prompts

The next CBSM strategy is to provide prompts reminding individuals to engage in desired behaviors.<sup>147</sup> Such prompts should specifically describe the encouraged action, as “non-explicit prompts ordinarily have little or no impact.”<sup>148</sup> They should also “be delivered as close in space and time as possible to the target behavior.”<sup>149</sup> Examples of effective prompts include placing signs that state “Do not cut across the grass” directly on lawns<sup>150</sup> and labeling environmentally friendly products on shopping-center shelves so consumers purchase more of those items.<sup>151</sup>

As previously discussed, the Palau Pledge campaign involves posting prompts on large signs across the island that remind tourists to engage in environmentally responsible behavior. The same signs are used in all locations, including tourist-facing businesses.<sup>152</sup> They remind people of the following eleven actions: (1) Don't touch or step on coral, (2) Do learn about the culture and people, (3) Don't smoke in restricted areas, (4) Don't collect marine life souvenirs, (5) Don't feed the fish and sharks, (6) Don't drag fins over coral when swimming, (7) Don't take fruit or flowers from gardens, (8) Do support local businesses and communities, (9) Don't litter, (10) Don't touch or chase wildlife, and (11) Do get others to respect the culture.<sup>153</sup>

These prompts would align best with CBSM techniques if placed closer in space and time to the targeted behaviors. For example, tourists might be better prompted to not kick or stand on coral if such a sign appeared on tour boats for tourists to see right before entering the water. In particular areas, signs might be more effective if they contained only one prompt. For example, near a trash receptacle, a sign with a single prompt (“Don't

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147. MCKENZIE-MOHR, *supra* note 126, at 83–91.

148. *Id.* at 84. For example, prompts to “Think Globally, Act Locally” are not specific enough to effectively change behavior. *Id.*

149. *Id.* at 86.

150. *Id.* at 84. In one case study, such signs resulted in 46 percent fewer people cutting across lawns. *Id.*

151. *Id.* at 86.

152. Kalyanikar, *supra* note 49.

153. PALAU PLEDGE, *supra* note 19. Out of all the Palau Pledge prompts, “Do get others to respect the culture” is the least explicit. Yet, this prompt is still more specific than the prompt to “Think Globally, Act Locally,” which was deemed by researchers as too vague. See MCKENZIE-MOHR, *supra* note 126, at 84. Thus, all eleven of the Palau Pledge prompts are likely explicit enough to be effective.

litter”) would likely be better than hanging a sign that has ten other prompts unrelated to garbage. Additionally, in shopping areas, stores could place labels on shelves to flag locally made items, which could lead to increased purchases of local products. Thus, the Palau Pledge campaign’s use of prompts is promising but might improve with the aforementioned changes.

#### 4. Communicating an Effective Message

The next CBSM technique recommends communicating a message that will most effectively change consumer behavior.<sup>154</sup> It should be specific, easy to remember, and “vivid, concrete and personalized” to persuade consumers by grabbing their attention.<sup>155</sup> The more vivid the message, the more likely it will retain consumers’ attention so they remember it later.<sup>156</sup> Whenever possible, the message should incorporate personal contact and discussion with other people.<sup>157</sup>

The most effective messages are tailored to the specific audience receiving the message and the specific speaker delivering it.<sup>158</sup> For instance, it is helpful to know if a certain audience would perceive a message as too extreme; such messages not only fail to persuade but can actually decrease the audience’s support for the message.<sup>159</sup> Moreover, messages are more effective when they come from a credible source.<sup>160</sup> In one case study, recommendations about energy conservation were perceived as more credible when they originated from the state regulatory energy agency rather than the local utility company.<sup>161</sup>

Effective messaging must also frame the issue appropriately.<sup>162</sup> When communicating about environmental threats, striking the right tone can be challenging; spinning the potential solutions in a positive light can undercut the urgency of the message, while using too threatening of language can cause viewers

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154. MCKENZIE-MOHR, *supra* note 126, at 93–110.

155. *Id.* at 94–95.

156. *Id.* at 96. In one case study, consumers were told that combining all the small cracks throughout their home would result in a hole the size of a football where heat escapes; these consumers retained this vivid message longer than consumers who were simply informed that they had cracks in their homes. *Id.*

157. *Id.* at 103.

158. *Id.* at 97–98.

159. *Id.* at 98.

160. *Id.* at 98–99.

161. *Id.*

162. *Id.* at 99–100.

to disconnect because they believe their actions are futile.<sup>163</sup> Thus, it is important to “apprais[e] an issue as a threat [so people] are likely to take appropriate action,” then incorporate empowering language so the audience feels capable of making a difference.<sup>164</sup>

The message of the Palau Pledge meets many of these elements. Tourists’ first introduction to the Pledge is the in-flight video—*The Giant*.<sup>165</sup> It uses attention-grabbing and vivid imagery to draw parallels between the giant and the tourism industry.<sup>166</sup> As this message has left an award-winning impression on the international community,<sup>167</sup> it likely leaves a memorable impression on tourists as well.<sup>168</sup> Moreover, its tone carefully balances a threatening tone with an empowering one; tourists have the power to destroy Palauan children’s homes when they behave irresponsibly, but they also have the power to help the island thrive when they act mindfully.<sup>169</sup> Such a message is easy for tourists to remember throughout their stay, especially with the help of the explicit prompts displayed around the island.<sup>170</sup> Plus, the message is credible; it is endorsed by the highest levels of Palau’s government, has diffused throughout the businesses and nonprofits on the island, and is supported by international organizations and companies that further environmental protection.<sup>171</sup>

One could argue that the Pledge’s message is not adequately tailored to a narrow audience since it targets *all* tourists who visit the island. Its core concept of using children as the stakeholder is meant to alleviate this concern,<sup>172</sup> but to further

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163. *Id.*

164. *Id.* at 99–101.

165. See Host Havas, *supra* note 2.

166. *Id.*

167. See, e.g., *Palau Pledge Honored with D&AD’s Black Pencil Accolade of the Decade*, *supra* note 6 (noting the Palau Pledge campaign won the prestigious Black Pencil Award of the decade for encapsulating “an idea that drives positive change and has the potential to impact the world”).

168. According to one source, “96% of tourists said the [P]ledge made them consider their actions more closely, and 65[%] said they used its principles during their stay to remind others about the right way to protect the delicate environment.” Medel, *supra* note 25, at 186.

169. See *id.* at 183; Host Havas, *supra* note 2.

170. See *supra* Section II.D.3.

171. See *supra* notes 34–53 and accompanying text (discussing key partners and supporters of the Palau Pledge).

172. See *Case Study: Palau Pledge*, D&AD, <https://www.dandad.org/en/d-ad-palau-pledge-case-study-insights> [<https://perma.cc/3WQF-RUC3>]. The advertising

address this critique, Pledge officials could use targeted messaging for narrower sub-groups of individuals staying in specific hotels or engaging in specific nature tourism excursions.<sup>173</sup> For instance, aquatic tour companies could provide tourists with vivid reminders endorsed by the government, showcasing the particular harms caused by damaging coral. Such targeted messaging could incorporate personal interaction and discussion to make it more impactful.<sup>174</sup>

### 5. Providing Incentives for Desirable Behavior

The next CBSM technique involves introducing incentives that motivate people to engage in environmentally conscious behavior.<sup>175</sup> Such incentives have worked especially well in waste reduction programs. For example, locales that have implemented “bottle deposit” programs—where people purchase bottled beverages but get money back when they return the bottle—have reduced waste by 68 to 82 percent.<sup>176</sup> Implementing disincentives can also be effective; for instance, cities imposing garbage collection fees have witnessed significant increases in recycling.<sup>177</sup> Of note, incentive programs have had mixed effects in programs unrelated to waste reduction.<sup>178</sup>

Currently, businesses also have an incentive to follow the Palau Pledge campaign because they can earn compliance certificates to display to attract tourists.<sup>179</sup> However, the Palau Pledge campaign does not offer incentives to *tourists* who comply

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and public relations group hired to assist Palau with the Pledge campaign conducted research among their “target market of tourists, primarily from China, South Korea and Japan” and found that, despite “vastly different cultural approaches to travelling between these nations,” they found that “[n]obody could deny wanting to leave a better world for [Palau’s] children. That’s shared in every single culture.” *Id.*

173. *See supra* Section II.D.3.

174. *See supra* Section II.D.3.

175. *See* MCKENZIE-MOHR, *supra* note 126, at 111–21.

176. *Id.* at 111–12. Of note, however, only ten states have adopted bottle bills, with only one bottle bill successfully passing since 1987. Michael Corkery, *Beverage Companies Embrace Recycling, Until It Costs Them*, N.Y. TIMES (July 5, 2019), <https://www.nytimes.com/2019/07/04/business/plastic-recycling-bottle-bills.html> [<https://perma.cc/28SP-4XF5>]. State efforts at passing more such bills are soundly defeated with the help of the beverage industry. *Id.*

177. MCKENZIE-MOHR, *supra* note 126, at 111–12.

178. *Id.* at 112–14.

179. *See* Responsible Tourism Education Act of 2018, *supra* note 28, § 6 (codified as amended at 28 PNC § 508); *see also* Medel, *supra* note 25, at 187.

with environmental rules and best practices. If Palau implements incentives in the future, waste reduction programs would be an appropriate area to experiment first since such programs have been effective elsewhere.<sup>180</sup>

## 6. Ensuring New Behaviors Are Convenient

The final CBSM technique is ensuring the new behavior is convenient to adopt.<sup>181</sup> Simply put, “[i]f the behavior is unpleasant or time-consuming, . . . [the CBSM] strategy will be unsuccessful,” even if internal barriers are addressed and alleviated.<sup>182</sup> Thus, it is important to identify the external barriers that might interfere with a behavior taking hold, then alleviate them as much as possible.<sup>183</sup>

The Palau Pledge already takes important steps to increase tourists’ convenience. By law, tour operators are required to provide reusable food and drink containers to tourists, which serve as an “alternative to disposable plastic or polystyrene.”<sup>184</sup> Three of the eleven rules require *refraining* from certain behavior, mandating that tourists not collect marine life souvenirs, “take fruit or flowers from gardens,” or bother wildlife;<sup>185</sup> such requests are innately convenient, since they do not require tourists to positively engage in an action. For the remaining rules, Pledge officials could maximize their convenience by ensuring tour boats do not stop in areas where people can easily stand on the coral, providing ample non-restricted smoking areas, identifying

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180. In addition, when implementing incentives as part of an effective CBSM technique, a project should consider the following six things: (1) an incentive should be large enough for people to care about, but past a certain point, projects experience diminishing returns; (2) as much as possible, a project should “closely pair the incentive and the behavior [because incentives] are usually most effective when they are presented at the time the behavior is to occur”; (3) the incentive should be visible so people know it exists; (4) incentives should “award positive behavior,” since disincentives “suppress[] an unwanted behavior but do[] not directly encourage a positive alternative”; (5) an incentive should not be removed once it is in place (this probably matters less for short-term tourists who would not know an incentive existed before their visit); and (6) a project should be aware that people might try to avoid the incentivized behavior in creative ways. MCKENZIE-MOHR, *supra* note 126, at 115–19.

181. *See* MCKENZIE-MOHR, *supra* note 126, at 121–27.

182. *Id.* at 121.

183. *Id.*

184. Responsible Tourism Education Act of 2018, *supra* note 28, § 4 (codified as amended at 11 PNC §§ 1615–16).

185. PALAU PLEDGE, *supra* note 19.

local businesses so tourists know where to purchase goods, and making more cultural education opportunities available for tourists.<sup>186</sup>

### III. ECO-PLEDGES IN THE UNITED STATES: INCREASING EFFICACY BY ADOPTING ELEMENTS OF THE PALAU PLEDGE

The psychological and behavioral underpinnings of the Palau Pledge are not just admirable in their own right—they offer valuable lessons for U.S. localities to improve the efficacy of their own eco-pledges. Various locations within the United States have also implemented eco-pledges,<sup>187</sup> which look different than the Palau Pledge but share the same goal: encouraging nature tourists to explore mindfully. This Part focuses primarily on eco-pledges in Colorado and recommends how these pledges can mimic elements of the Palau Pledge to increase their effectiveness.

#### A. *An Overview of Eco-Pledges in the United States, with a Focus on Colorado*

The United States has passed various pieces of environmental legislation to create wilderness areas<sup>188</sup> and protect natural resources.<sup>189</sup> The National Environmental Policy Act (NEPA)

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186. In 2019, Palau won an award from the Pacific-Asia Travel Association for promoting community-based tourism in Airai State. *Palau Wins PATA Gold Award*, ISLAND TIMES (July 23, 2019), <https://islandtimes.org/palau-wins-pata-gold-award> [<https://perma.cc/CXU6-CEZC>]. As part of this tour, visitors see traditional meeting houses, eat local foods prepared by Palauan women, and experience other cultural elements. *Experience Airai*, MICRONESIA (Oct. 9, 2019), <https://www.micronesiatour.com/events/experience-airai> [<https://perma.cc/34MB-YPG8>].

187. See *supra* note 16.

188. One such iconic law is the Wilderness Act of 1964, Pub. L. No. 88-577, 78 Stat. 890 (codified as amended at 16 U.S.C. §§ 1131–36). This law “established the National Wilderness Preservation System and defines wilderness ‘as an area where the earth and its community of life are untrammelled by man, where a man himself is a visitor who does not remain.’” William H. Rodgers, Jr., *The Seven Statutory Wonders of U.S. Environmental Law: Origins and Morphology*, 27 LOY. L.A. L. REV. 1009, 1009–10 (1994); see also Samuel Case, Comment, *Clearing the Path from Trailhead to Summit with a Leave No Trace Law*, 2017 WIS. L. REV. 611, 615–17 (noting that the Wilderness Act of 1964 created protected wilderness areas and delegated their management to several agencies, which in turn promulgated rules restricting certain commercial activity).

189. See Rodgers, *supra* note 188, at 1009–10 (reviewing environmental laws that include the following: the Clean Water Act, “which makes unlawful the discharge of any pollutant by any person”; the Endangered Species Act of 1973, which

serves as the country's "basic national charter for protection of the environment."<sup>190</sup> However, "[a]t its core, NEPA simply requires that *federal agencies* consider the environmental consequences of their actions"<sup>191</sup> rather than requiring individuals to behave in specific ways. In contrast, section 9 of the Endangered Species Act (ESA) makes it illegal for any *individual* to "take" or possess an endangered species, with limited exceptions.<sup>192</sup> However, the ESA does not target the actions of nature tourists in particular, nor do other national laws in the United States. Thus, a nature tourist who damages the environment—but not so egregiously as to harm an endangered species and violate the ESA—escapes federal regulation. Eco-pledges, then, help fill the gaps to encourage better environmental behavior.

Several localities within the United States have implemented eco-pledges.<sup>193</sup> These pledges operate on a voluntary basis, where nature tourists have the option to sign the pledge when they visit their destination.<sup>194</sup> The main goal of these pledges is to encourage tourists to follow wilderness best practices that either are commonly known throughout the United States or are specific to the location.<sup>195</sup> Some pledges also serve as a fundraising tool.<sup>196</sup>

Three mountain towns in Colorado have implemented their own version of an eco-pledge. For example, Aspen implemented the Aspen Pledge in the summer of 2017 after a number of unprecedented mountaineering tragedies took place on surrounding peaks.<sup>197</sup> It asks visitors to agree to thirteen best practices

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mandates that federal agencies shall not jeopardize any protected species or its habitat; and section 102 of the National Environmental Policy Act of 1969, "which requires that environmental impact statements accompany all actions by federal agencies that may have a significant effect on the human environment").

190. 40 C.F.R. § 1500.1(a) (2020).

191. *WildEarth Guardians v. Zinke*, 368 F. Supp. 3d 41, 52 (D.D.C. 2019) (emphasis added).

192. See 16 U.S.C. § 1538(a)(1); see also ERIN H. WARD, CONG. RSCH. SERV., IF11241, THE LEGAL FRAMEWORK OF THE ENDANGERED SPECIES ACT (ESA) 2 (2019).

193. See *supra* note 16.

194. See Glusac, *supra* note 16.

195. *Id.*

196. See, e.g., *Steamboat Springs, CO, PLEDGE FOR THE WILD*, <https://www.pledgewild.com/steamboat> [<https://perma.cc/S4HE-UHNN>].

197. Out-of-town visitors increasingly attempted summiting mountains they were not equipped to handle, which led to an uptick in mountain-climbing deaths. Telephone Interview with Eliza Voss, Dir. of Mktg., Aspen Chamber of Com. (Oct. 8, 2020).

regarding (but also extending beyond) mountain-climbing etiquette.<sup>198</sup> The current list includes promises to “venture into the great unknown while staying on the known trails” and to “forego high fashion, and dress for high elevations”; as a tongue-in-cheek request, it also asks tourists to promise “not [to] ski in jeans.”<sup>199</sup> The city’s pledge was adopted and endorsed by the Chamber of Commerce, and later, Aspen became a member of a nation-wide organization called Pledge for the Wild.<sup>200</sup> This organization describes itself as “a collection of mountain towns and outdoor communities joining together to help visitors find ways to give back to the wild places they love.”<sup>201</sup> Toward that end, its main function is to provide a platform for nature tourists to donate money to a local nonprofit that helps maintain natural places near the member city.<sup>202</sup>

Steamboat Springs also implemented its own eco-pledge in 2019, which happened when the city became a member of the Pledge for the Wild organization.<sup>203</sup> The city’s Chamber of Commerce publicly endorsed this pledge.<sup>204</sup> Durango is the final Colorado city with an eco-pledge and is also affiliated with the

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198. The full list of promises in the Aspen Pledge includes:

I pledge to explore Aspen responsibly. I will come prepared for any experience. I will feed my sense of adventure, but never feed the wildlife. I will forego high fashion, and dress for high elevations. I will venture into the great unknown while staying on the known trails. I will carve the snow and not the trees. I will find myself without mountain rescue having to find me. I will hit the slopes without hitting the other skiers; I will take awesome selfies, without endangering myself-ie. I will camp only where permitted and secure a permit when necessary. I will remain in one piece, by leaving the wildlife in peace. I will adhere to ski patrol closures as I wander here and there. I will not ski in jeans.

*Sign the Aspen Pledge*, ASPEN CHAMBER RESORT ASS’N, <https://aspenchamber.org/pledge> [<https://perma.cc/63KS-2NS2>].

199. *Id.*

200. See PLEDGE FOR THE WILD, *supra* note 16.

201. FAQ, PLEDGE FOR THE WILD, <https://www.pledgewild.com/faq> [<https://perma.cc/428Y-UN97>].

202. See, e.g., Aspen, CO, PLEDGE FOR THE WILD, <https://www.pledgewild.com/aspen-co> [<https://perma.cc/A84R-VY29>] (noting that Aspen’s tourists can donate to the Independence Pass Foundation through the Pledge for the Wild website or by sending a text message to a phone number).

203. See *How to Get a Bit “Wild” in Steamboat*, STEAMBOAT SPRINGS CHAMBER (Aug. 2, 2019), <https://www.steamboatchamber.com/blog/post/how-to-get-a-bit-wild-steamboat> [<https://perma.cc/KTC7-KR2H>].

204. *Id.* At the time of publication, this pledge did not include a list of line-item promises for nature tourists to abide by when visiting.



Pledge for the Wild organization.<sup>205</sup> Its pledge is publicly endorsed by the Durango Area Tourism Office and lists the following five promises for visitors to make: Stay healthy;<sup>206</sup> Be prepared; Leave no trace; Be firewise; Be respectful.<sup>207</sup>

These eco-pledges deliberately take an inviting tone; as one official affiliated with the Aspen Pledge noted, “Preaching to people will not get the message across.”<sup>208</sup> Of note, the pledges operate separately from enforcement mechanisms that mete out fines or penalties for harming the environment, focusing instead on voluntarily following best practices.<sup>209</sup>

### *B. Adopt Regulatory Measures*

Unlike Palau, the United States does not have national statutes aimed at nature tourism.<sup>210</sup> Moreover, Colorado has not passed any state laws specifically aimed at regulating nature tourists’ behaviors. Passing such laws, either at the federal or state level, would provide a strong foundation upon which eco-pledges could build.<sup>211</sup> However, given that these pledges operate at a local level, a more attainable goal is for municipalities to enact ordinances in support of regulating nature tourists’ behavior. Thus, an established framework at a national or state level would guide the implementation of local eco-pledges and lend credibility to such pledges.<sup>212</sup>

For example, the Aspen Municipal Code does not contain ordinances specifically aimed at ensuring nature tourists behave responsibly. However, one ordinance creates “a special separate fund to be known as the City Tourism Promotion Fund” and specifies that “[f]unds dedicated to tourism promotion . . . shall

205. See *Durango, CO*, PLEDGE FOR THE WILD, <https://www.pledge-wild.com/durango-co> [<https://perma.cc/3VH4-CQ9A>].

206. Of note, “stay healthy” specifically refers to taking steps to combat spreading COVID-19. See *Care for Durango!*, VISIT DURANGO COLO., <https://www.durango.org/plan/care-for-durango> [<https://perma.cc/U94E-HYFJ>].

207. See *id.* (listing all five promises).

208. Telephone Interview with Eliza Voss, *supra* note 197.

209. *Id.* Ms. Voss noted that the goal of the Aspen Pledge is to encourage visitors to act in alignment with environmental *best practices*, rather than specific regulations. *Id.* The government pursues legal penalties against only the worst environmental violators. *Id.*; see also Sampson, *supra* note 18 (noting that although some pledges “warn against behavior that is against the law,” most locales do not impose fines directly for breaking their pledges).

210. See *supra* notes 188–192 and accompanying text.

211. See *supra* Section II.A.

212. See *supra* notes 160–161 and accompanying text (discussing credibility).

be appropriated . . . to a professional marketing entity such as the Aspen Chamber Resort Association.”<sup>213</sup> Such funds can be used for “[p]lanning and implementing the advertisement, promotion and development of tourism” within Aspen.<sup>214</sup> With a slight amendment to this ordinance, Aspen could more explicitly support the spirit of the Aspen Pledge by emphasizing its commitment to *sustainable* tourism.<sup>215</sup> It could reference the language used in Palau’s central nature tourism legislation,<sup>216</sup> which operates largely to guide the development of a cohesive and coordinated sustainable tourism sector.

Two other Aspen ordinances are worth noting; one makes it “unlawful for any person to intentionally or knowingly . . . injure, deface, mutilate, . . . pull down, break or in any way interfere with or molest . . . any tree . . . belonging to or under the control of the City . . . .”<sup>217</sup> The other specifies that “[a]ny person who deposits, throws or leaves any litter on any public . . .

213. ASPEN, COLO., MUN. CODE §§ 23.50.050(a), (f) (2020).

214. *Id.* § 23.50.050(f)(1).

215. Such an ordinance could state something like the following (with proposed added language in *italics*):

WHEREAS, the City Council of Aspen recognizes that responsible use of our natural lands is necessary to maintaining its beauty for generations to come, and it is our duty to encourage responsible treatment of the lands by the thousands of visitors who travel to experience them.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, THAT:

SECTION I. The Municipal Code, Section 23.50.050, is hereby amended to read as follows:

(a) There is hereby created a special separate fund to be known as the City *Sustainable* Tourism Promotion Fund. . . .

. . . .

(f) Funds dedicated to tourism promotion in accordance with this Section shall be appropriated . . . only for the following purposes:

(1) Planning and implementing the advertisement, promotion and development of *sustainable* tourism . . . .

SECTION II.

§ #-#-#. *Declaration of Policy*

*It is hereby declared that the policy of the city government of Aspen, Colorado is to encourage the development of a visitor industry consistent with responsible and sustainable nature tourism practices.*

216. See Responsible Tourism Education Act of 2018, *supra* note 28 (codified as amended 13 PNC § 1012).

217. ASPEN, COLO., MUN. CODE § 15.04.240 (2020).

property or in any waters commits a violation . . . .”<sup>218</sup> A violation of either ordinance is punishable by fines or imprisonment.<sup>219</sup>

This Comment concedes that ordinances that mete out penalties to nature tourists for littering or mistreating the environment are challenging to enforce, either because the offending behavior is difficult to detect or because cities lack the resources to enforce them.<sup>220</sup> However, the main objective of adopting such ordinances is not necessarily to enforce them against tourists;<sup>221</sup> rather, it is to increase good behavior from individuals who comply with a law simply because it exists<sup>222</sup> and to lend credence to the non-regulatory measures that build off of the law.<sup>223</sup> Thus, reservations about enforcement should not necessarily stop a city from adopting such ordinances.

### C. *Market Cities as Environmentally Conscious Destinations*

Nature tourism destinations within the United States—including the three Colorado cities—should ensure they market themselves as environmentally conscious places to attract individuals who respect the environment.<sup>224</sup> National survey data support this contention; increasingly, visitors to Colorado “believe it is very important to choose a destination based on sustainable practices.”<sup>225</sup>

Colorado has already taken steps to signal its environmental conscientiousness. For example, in 2019, Colorado became the first state “to put into statute both strong short-term and long-term goals for cutting climate pollution while requiring the

218. *Id.* § 15.04.380.

219. *Id.* § 1.04.080(a).

220. *See supra* note 67 and accompanying text (discussing the difficulty of enforcing environmental regulations targeting individual behavior).

221. *See supra* notes 65–67 and accompanying text (discussing how punitive measures alone do not sufficiently make individuals behave in desired ways).

222. *See supra* notes 64–70 and accompanying text (discussing the deterrent and legitimacy theories of compliance with laws).

223. *See supra* notes 71–72 (discussing the need for both regulatory and non-regulatory approaches to change individual behavior related to sustainability).

224. *See supra* Section II.B (discussing Palau’s method of marketing itself as environmentally friendly to attract environmentally conscious tourists).

225. Suzie Romig, *In the Age of Social Distancing, Thoughts on Tourism Distancing Arise*, COLORADOBIZ (June 22, 2020), <https://www.cobizmag.com/in-the-age-of-social-distancing-thoughts-on-tourism-distancing-arise> [<https://perma.cc/EKG7-XNPA>].

state to develop and implement regulations to achieve these critical reductions in a timely manner.”<sup>226</sup> On a local level, Aspen<sup>227</sup> and Durango<sup>228</sup> similarly set greenhouse gas emission reduction targets. Steamboat Springs also publicly emphasizes its various sustainability initiatives.<sup>229</sup> Since all three cities excel in adopting environmentally friendly practices, any tourism marketing efforts should emphasize this to attract nature tourists who are good stewards of the environment. Other cities should follow suit.

#### *D. Acquire a Signature, When Possible*

Currently, “signing” each eco-pledge in the United States is voluntary; tourists can log onto a website and either submit their names to indicate that they agree to the listed environmental principles or donate money without signing anything.<sup>230</sup> This does not change behavior as effectively as signing a hard-copy document.<sup>231</sup> Whenever possible, cities with eco-pledges should create opportunities for visitors to sign a printed version of their pledges.<sup>232</sup> In Colorado mountain towns, ski resorts could request that visitors sign their lift tickets, agreeing to observe the pledge elements. If tourists check into a hotel, staff could ask that they sign a printout of the city’s pledge. Or, the cities could

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226. *Colorado Adopts Historic Legislation to Address Climate Change*, ENV’T DEF. FUND (May 30, 2019), <https://www.edf.org/media/colorado-adopts-historic-legislation-address-climate-change> [<https://perma.cc/E6QG-ECPT>] (describing H.B. 19-1261—Climate Action Plan to Reduce Pollution). The law established a statewide goal to reduce greenhouse gas emissions (in comparison to 2005 levels) by 26 percent by 2025, 50 percent by 2030, and 90 percent by 2050. H.R. 19-1261, 72d Gen. Assembl., Reg. Sess. (Colo. 2019).

227. *Aspen’s Greenhouse Gas (GHG) Reduction Targets*, CITY OF ASPEN, <https://www.cityofaspen.com/564/Greenhouse-Gas-Reductions> [<https://perma.cc/8P5A-A7YY>].

228. *Greenhouse Gas Emissions*, CITY OF DURANGO, <https://co-durango.civicplus.com/1316/Greenhouse-Gas-Emissions> [<https://perma.cc/MZ7M-PNLD>].

229. See *Sustainability*, STEAMBOAT SPRINGS CHAMBER, <https://www.steamboat-chamber.com/economic-development/business-resources/sustainability> [<https://perma.cc/JJA8-ZA68>] (listing nine initiatives overseen by the Yampa Valley Sustainability Council).

230. See, e.g., *Sign the Aspen Pledge*, *supra* note 199 (collecting signatures); *Steamboat Springs, CO*, *supra* note 196 (collecting donations but not allowing signatures).

231. See Dowling, *supra* note 119 and accompanying text (discussing the potential psychological ineffectiveness of digital signatures).

232. See *supra* Section II.C (discussing the psychological impact of signing an agreement).

simulate the Palau Pledge process of signing a stamped passport,<sup>233</sup> perhaps by working with local businesses to issue cards with the city's pledge, which individuals could sign and then carry with them. This should increase the likelihood that individuals will internalize the elements of the pledge and act in accordance with it.

### *E. Implement CBSM Techniques*

Cities should also incorporate relevant CBSM techniques into their overall pledge campaigns. The first technique is gaining a commitment from each nature tourist; simply put, this means maximizing the number of people who agree to follow an eco-pledge—preferably in person and in writing,<sup>234</sup> as discussed in the preceding paragraph. Unlike Palau's ability to mandate this commitment from tourists, Colorado cities have open borders and cannot feasibly force visitors to sign their pledges. However, as previously noted, there are more psychological benefits to securing voluntary commitments from people,<sup>235</sup> so cities' voluntary pledges may better reinforce positive behavioral changes. But, if possible, cities should make these voluntary commitments public.<sup>236</sup> For example, if hotel clerks were to gather pledge commitments from visitors, they could offer to publish such commitments online on a pledge-affiliated website, or perhaps to a social media account, which would hold the signer accountable to their commitment.

Per the next techniques of CBSM, the pledge behaviors should be established as social norms.<sup>237</sup> In Palau, promoting and diffusing the Pledge as a social norm derives from legislation that facilitates responsible tourism,<sup>238</sup> so city ordinances would serve the same end. Palau also diffuses the Pledge as a social norm by hanging conspicuous signage around the island

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233. See *supra* notes 32–33 and accompanying text; *supra* Section II.C (recounting the Palau Pledge passport stamp process).

234. See *supra* notes 128–130 and accompanying text (discussing the effectiveness of in-person, written signatures).

235. See *supra* note 131 and accompanying text (discussing the ineffectiveness of coerced commitments).

236. See *supra* note 130 and accompanying text (discussing the impact of publicizing signatures).

237. See *supra* notes 135–140 and accompanying text (discussing adoption and diffusion of social norms).

238. See *supra* Section II.A; *supra* note 143 and accompanying text.

reminding tourists of its existence;<sup>239</sup> the three Colorado cities should do something similar. Aspen has taken steps toward this end, hanging signs with the Aspen Pledge around the city, including in restaurant bathroom stalls.<sup>240</sup> The social norms should also be reinforced by residents of the three cities, who model responsible behavior listed in the pledges.

The next CBSM technique is to provide prompts that remind tourists how to behave. While hanging signs with prompts is important, the formatting of such prompts is also key; first, the prompts on the signs should be explicit.<sup>241</sup> Unspecific prompts to “Think Globally, Act Locally” are too vague to meaningfully remind tourists how to behave.<sup>242</sup> Thus, if cities base prompts on the language of their pledges, they should ensure the prompts are specific. For example, in Aspen, instead of asking tourists to “come prepared for any experience,” prompts should contain specific direction to check alpine temperatures or to carry water before beginning excursions.<sup>243</sup> This does not necessarily mean that the pledges *themselves* should change—just the signs tourists encounter around town. This method would be similar to the Palau Pledge because the promise stamped in tourists’ passports is different than the eleven specific “dos and don’ts” listed on signs across the island.<sup>244</sup>

In addition, such prompts should be “delivered as close in space and time as possible to the target behavior.”<sup>245</sup> Localities should ensure (if they do not already) that prompts about littering, skiing responsibly, and staying on trails appear near trashcans, ski hills, and trailheads or switchbacks. For these prompts to reach the widest audience, they could also appear in the most common non-English languages spoken in the locale.<sup>246</sup>

The next CBSM technique is ensuring that the conveyed message is an effective one. Thus, any eco-pledge’s message should be vivid and memorable.<sup>247</sup> Of the three Colorado cities,

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239. See *supra* notes 141–144 and accompanying text.

240. See Glusac, *supra* note 16.

241. See *supra* note 148 and accompanying text.

242. See *supra* note 148.

243. See *Sign the Aspen Pledge*, *supra* note 199.

244. See *supra* notes 33, 153 and accompanying text (recounting the Palau Pledge text and prompts on signage).

245. See *supra* note 149 and accompanying text.

246. In Colorado, the most common non-English language spoken at home is Spanish. See U.S. CENSUS BUREAU, REPORT NO. PHC-T-37, ABILITY TO SPEAK ENGLISH BY LANGUAGE SPOKEN AT HOME: 2000 tbl.7b (2000).

247. See *supra* notes 154–156 and accompanying text.

Aspen's pledge is most memorable. Although several of its pledge elements are not specific enough to serve as effective prompts, they might stick in tourists' minds for their creativity and tongue-in-cheek language ("I will take awesome selfies, without endangering myself-ie").<sup>248</sup> Plus, Aspen has produced a number of videos to promote and give flavor to its pledge.<sup>249</sup>

Cities should make their pledge campaigns more vivid by using Palau as a model for memorability; for instance, the Palau Pledge directs its promise to the children of Palau, who are a sympathetic stakeholder group.<sup>250</sup> It also strikes a nuanced tone, warning tourists of damage done by irresponsible exploration, while simultaneously empowering them to act responsibly to preserve the environment.<sup>251</sup> The Colorado pledges could follow suit, identifying a sympathetic stakeholder group and conveying a sense of urgency with which tourists must act. For example, in the heavily trafficked wilderness around Aspen, hikers who cannot find dead wood at high elevations burn living trees instead.<sup>252</sup> This threatens forest habitats and, in turn, animals who depend on them; the animals, then, could represent a sympathetic stakeholder group that an eco-pledge aims to protect.

The next CBSM approach provides incentives for tourists to abide by elements of the pledge.<sup>253</sup> As noted previously, incentives work particularly well for waste-reduction programs<sup>254</sup> and could similarly work well for eco-pledges that encourage recycling. Such incentives could excel in states with bottle deposit laws; these laws require that, upon purchasing items in recyclable containers (often glass, metal, or plastic), consumers pay a deposit of a few cents, which they recoup upon returning the

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248. See *Sign the Aspen Pledge*, *supra* note 199.

249. See, e.g., Visit Aspen, *How to Aspen: Hiking Etiquette*, YOUTUBE (June 4, 2018), <https://www.youtube.com/watch?v=ZXAEjUokIHE> [<https://perma.cc/26JU-UZYE>]; Aspen Times, *The Drop-In: Take the Aspen Pledge with the Aspen Chamber*, YOUTUBE (Feb. 19, 2020), <https://www.youtube.com/watch?v=X5KvLghObiQ> [<https://perma.cc/3U7A-MZEH>].

250. See *supra* notes 24, 84–85, 172 and accompanying text.

251. See *supra* notes 162–164, 169 and accompanying text.

252. See Scott Condon, *Highly Used Aspen-Area Wilderness Might Need Intervention*, ASPEN TIMES (Sept. 6, 2012), <https://www.aspentimes.com/news/highly-used-aspen-area-wilderness-might-need-intervention> [<https://perma.cc/6L52-G8JG>].

253. See *supra* Section II.D.5.

254. See *supra* notes 177–178 (noting the high success rates of waste reduction incentives and mixed success rates of incentives for other sustainability programs).

containers to a specified location.<sup>255</sup> Although short-term nature tourists likely lack interest in returning recyclables to recycling locations, the municipality could instead collect the recyclables and redeem the deposits, which could help fund conservation programs.<sup>256</sup> Although nature tourists would not redeem this money themselves, supporting environmental funding might still provide them an incentive to recycle.

The final CBSM element for cities to follow is crucial: ensuring the demands in their pledges are convenient.<sup>257</sup> Durango should provide conveniently located and frequently emptied garbage cans to decrease littering (if it does not already) so visitors can “leave no trace” without hassle.<sup>258</sup> In Aspen, trails should continue to be well-marked so hikers can easily “venture into the great unknown while staying on the known trails.”<sup>259</sup> And Aspen should continuously mark its campsites clearly and establish an easy process to purchase camping permits so campers can easily sleep “only where permitted and secure a permit when necessary.”<sup>260</sup> This idea applies to every element of any eco-pledge, inside or outside of Colorado.

## CONCLUSION

The outdoor recreation market is growing.<sup>261</sup> In 2019, this market “accounted for 2.1 percent (\$459.8 billion) of current-dollar [GDP]” in the United States, and it has consistently grown

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255. See Jeffrey B. Wagenbach, Note, *The Bottle Bill: Progress and Prospects*, 36 SYRACUSE L. REV. 759, 761–62 (1985). Only ten states have such bottle bills. Corkery, *supra* note 176.

256. Over the years, unclaimed bottle deposits forfeit large sums of money; for example, the state of Oregon recently estimated that, between 1971 and 2020, \$500 million of bottle deposits went unclaimed and recommended that future unclaimed deposits fund environmental programs. OR. LIQUOR CONTROL COMM’N, OR. SEC’Y OF STATE, REPORT NO. 2020-36, OREGON HAS AN OPPORTUNITY TO MODERNIZE GROUNDBREAKING BOTTLE BILL ON ITS 50TH ANNIVERSARY 11 (2020), <https://sos.oregon.gov/audits/Documents/2020-36.pdf> [<https://perma.cc/TMK5-6RDD>].

257. See *supra* Section II.D.6.

258. See *supra* note 207 and accompanying text.

259. See *Sign the Aspen Pledge*, *supra* note 199.

260. See *id.*

261. See Jason Blevins, *Outdoor Recreation Continues to Be a Mighty Economic Force, Accounting for \$788 Billion in 2019*, COLO. SUN (Nov. 12, 2020, 4:20 AM), <https://coloradosun.com/2020/11/12/outdoor-recreation-economic-force-788-billion-in-2019> [<https://perma.cc/3E7G-QTRW>].



in the last several years.<sup>262</sup> With this rise in recreation, locations with nature areas will likely see an influx of nature tourists, many of whom may not know how to properly explore outdoor environments. Within Colorado, “tourism management leaders in the state are . . . work[ing] on expanding, improving and formalizing sustainable tourism strategies, including efforts to spread travelers’ love of Colorado more evenly throughout the state.”<sup>263</sup> If this plan succeeds, then it runs the risk that lesser-traveled Colorado cities could be overrun and overwhelmed with nature tourists. These cities—and others like them across the country—should preemptively craft sustainable tourism strategies, and eco-pledges should be part of such strategies.

Indeed, such pledges are steadily gaining in popularity, especially among mountain towns and coastal areas that wish to slow local environmental degradation.<sup>264</sup> These pledges could expand to novel arenas as well. For example, entrances into National Parks incorporate a natural bottleneck, as nature tourists must stop and pay an entry fee before entering; these bottlenecks offer an opportune time for tourists to sign an eco-pledge.<sup>265</sup>

Overall, because Palau is a leader in the sustainable tourism field, recreation destinations within the United States can incorporate several elements from the Palau Pledge into their own nature tourism initiatives; these efforts would continue attracting tourists or other consumers while simultaneously achieving higher rates of environmental protection.

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262. BUREAU ECON. ANALYSIS, U.S. DEP’T COM., BEA 20–56, OUTDOOR RECREATION SATELLITE ACCOUNT, U.S. AND STATES, 2019, at 1 (2020), [https://www.bea.gov/sites/default/files/2020-11/orsa1120\\_1.pdf](https://www.bea.gov/sites/default/files/2020-11/orsa1120_1.pdf) [<https://perma.cc/UG6S-EY6H>].

263. See Romig, *supra* note 225.

264. See Glusac, *supra* note 16 (“In recent years, tourism pledges have proliferated as destinations from Iceland to Hawaii seek to train travelers in sustainable practices and cultural awareness.”).

265. In fact, the National Park Service has previously considered implementing CBSM elements to increase National Park visitor compliance with best practices. See ALIA DIETSCH ET AL., NAT’L PARK SERV., NATURAL RESOURCE REPORT NPS/NRSS/BRD/NRR—2016/1125, TOWARDS AN ADAPTIVE MANAGEMENT APPROACH TO NON-COMPLIANCE IN NATIONAL PARK SERVICE UNITS 16–17 (2016), [https://irma.nps.gov/dsscholar/documents/2227306/NRSS\\_NoncompliantBehaviors\\_NRR2016-125.pdf](https://irma.nps.gov/dsscholar/documents/2227306/NRSS_NoncompliantBehaviors_NRR2016-125.pdf) [<https://perma.cc/F7R2-E4VR>].