League of Women Voters of Minnesota Records

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land use at the state level -the growing edge

A wide range of problems fight for our immediate attention and concern, as citizens form battle lines from the Tennessee-Tombigbee Waterway to the Alaska Pipeline. Conflicting passions rise as interstate highways are built around business districts or through parklands, wetlands are filled for construction sites or drained for farming, vacation resorts are planned along windswept beaches. Central to such environmental, as well as economic and social issues, is land use. How shall we plan for the future use of our land?

Competing demands for land are increasing every day--for housing, community development, recreation, agriculture, commerce, industry, mining, and open space. But the immutable fact remains: while our population grows, our supply of land remains constant.

In 1973, the United States had a population of over 210 million, and the most modest of census projections predicts 40 million more people by the year 2000. Where will they live and work?

The Commission on Population Growth and the American Future estimates that the total land area encompassed by urban regions will double between 1960 and 1980 and grow at a slower rate after that. By the year 2000, as much as 5/6 of our nation's people may be living in urban regions covering 1/6 of coterminous U.S. land. If these projections are true, the land we occupy in the year 2000 is largely being settled now. The Commission observes that if we settle our land badly *now*, we shall endure the consequences *then*.

How can we guide future growth? How can we assure that our varied use of land is harmoniously related, efficient, and beneficial to people and the environment?

NEW TRENDS IN STATE PLANNING AND CONTROL

WHAT CONGRESS IS DOING: MEASURES TO AID STATE LAND USE CONTROL

Proposals to encourage states to guide, control, and coordinate land use of greater than local impact are on the list of priorities facing the 93rd Congress.

States possess ultimate authority for land use control but, historically, have delegated such power to local government, with little or no guidance at the state level. However, local government boundaries do not generally coincide with natural boundaries and local governments often cannot solve extra-local or regional problems. Within the past decade, some states have attempted to strengthen control over land use. Both the National Commission on Urban Problems and the Advisory Commission on Intergovernmental Relations have recommended that states reassume some land use responsibilities by creating active planning and review agencies.

The general thrust of proposed national land use legislation is to give states federal financial assistance to encourage state planning and control over land use of clearly "more than local concern." It does not mandate, require, or allow federal planning or federal zoning. States would have wide latitude in determining how much or what specific land should be controlled and by what methods. For example, these questions would be left to the discretion of each state: Should a state define large-scale development to include a subdivision of 20 units or 200? Should a state exercise direct zoning or establish guidelines for localities to follow? Federal review of state land use programs would not focus on the *substance* but on whether the state is making "good faith" efforts to develop and implement its program.

current focus

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National land use legislation was previously considered by the Senate and House Interior and Insular Affairs Committees in the 92nd Congress. A bill was passed by the Senate in September 1972, but it failed to reach the floor of the House before the end of the session. Similar legislation is now before the 93rd Congress.

In the Senate

In January 1973, Senator Henry Jackson (D-Wash.), Chairman of the Senate Interior and Insular Affairs Committee, introduced the Land Use Policy and Planning Assistance Act, (S. 268, with generally the same provisions as S. 632 as reported out in the 92nd Congress). One month later, S.924, a similar proposal with the same title, was introduced on behalf of the Administration.

Very briefly, S. 268 would establish a grant-in-aid program in the Department of Interior to encourage states to 1) develop a comprehensive planning process within three years and 2) within five years, exercise control over areas of critical environmental concern; key facilities; public facilities, housing, and utilities of regional benefit; private large-scale development; and rural land sales projects.

After holding hearings and considering the provisions of the two proposals, the Senate Interior Committee reported out a compromise (S. 268) on June 7, 1973 (Senate Report No. 93-197). The bill was ordered reported by a 10-3 roll call vote. Senators Paul Fannin (R-Ariz.), Clifford Hansen (R-Wyo.), and Dewey Bartlett (R-Okla.), in dissenting minority views, maintained that the bill would preempt state and local rights to plan and regulate land use. They also predicted that a national land use bill would stimulate the regulation of private property and consequently stifle private ownership of land.

Following a four-day debate of the bill, the Senate passed an amended version of S. 268 by a large vote of 64-21 on June 21. Debate centered on these issues:

- protection of private property rights versus the public interest
- states rights versus federal penalties if states fail to develop programs
- level and ratio of federal funding
- state control over designation of "areas of critical environmental concern" versus federal review of such designations

The basic disagreement is revealed, on the one hand, by Senator Fannin's comment that the bill would "give the federal government dictatorial power over the state planning process... Washington would exercise state constitutional rights," and, on the other, by Senator James McClure's (R-Id.) contention that the bill would "stimulate the state [planning] processes, rather than substitute a federal process for them."

Among significant amendments rejected was one introduced by Senator Jackson to reduce funding for federal airport, highway, and land and water conservation grants as a penalty for states which fail to develop land use programs. The vote against sanctions was very close (52-44).

Major Provisions of the Senate-Passed Land Use Policy and Planning Assistance Act of 1973, S. 268, as Passed by the Senate, June 21, 1973.

Administration of grant-in-aid program: To be administered by Secretary of Interior through Office of Land Use Policy Administration. The Secretary of Interior must also consult with HUD Secretary, EPA Administrator and a federal Interagency Advisory Board. Guidelines must be issued by the Executive Office of the President.

Criteria for approval of state planning process: Within 3 years, a state must develop a planning process for agency structure, personnel, and funding, to include an inventory of state land and natural resources, population and density patterns, economic characteristics, environmental conditions, housing projections and *citizen public interest organizations available for land use planning and management within the state.* The process must also include methods of identification of areas of critical environmental concern (fragile or historic lands, renewable resource lands, natural hazard lands); key facilities (airport, highway interchange, energy and recreational uses); large-scale private development; regionally beneficial public facilities, housing, and utilities. There must be an appeals process as well as provision of *opportunities for public participation and education throughout the planning process and program.* The state would be advised by a council of local elected government officials. The state would be required to have a specific program to regulate rural land sales or development projects over 50 lots and outside Standard Metropolitan Statistical Areas; ensuring that water, power and other services are adequate and that soil erosion, flood plains, and unstable soils are avoided.

Criteria for approval of state program (implementation): Within 5 years, the state is to exercise control over areas of critical environmental concern, key facilities, large-scale private development, and rural land sales projects. Such land use must not violate any pollution standard, plan, or law. Methods of state control have to include 1) direct state regulation and/or 2) state administrative review. Local regulations must not arbitrarily or capriciously restrict public facilities, housing, or utilities of regional benefit. The state is required to encourage the employment of local land use controls.

Penalties for failure to develop program: If a state has not made a "good faith effort" to develop a planning *process* within 3 years and a planning *program* within 5 years: a) Interior may terminate land use grants subject to an ad hoc hearing board determination, b) public hearings must precede--by at least 180 days--federal projects significantly affecting land use.

Coordination between state program and federal land use activities: Federal programs, projects, and activities are to be consistent with the state land use program except in cases of overriding national interest, at the determination of the President. The A-95 Review Process (specified in Office of Management and Budget Circular A-95) shall be used to determine consistency.

Federal funding: Authorizes $100 million per year to states for 8 fiscal years:

1st - 5th yrs.--up to 9/10 of costs
6th - 8th yrs.--up to 2/3 of costs

In addition, $15 million are authorized annually for coordination of interstate planning. $10 million annually for Indian tribes, and $2 million annually for training and research grants.

Relationship to the Coastal Zone Management Act of 1972: When the Coastal Zone Management Act was signed into law in 1972, a potential overlap between the law and the land use proposals existed. In S. 268 the Senate deleted references to "coastal wetlands, marshes, beaches, and estuaries" from the definition of "areas of critical environmental concern" so the Coastal Act would not be diminished. Two reasons can be cited: first, the coastal zone is an area of immediate concern because vulnerable biological resources are threatened by strong pressures for development. Second, many states are already prepared to move ahead with coastal management programs, while setting up overall land use programs will take more time. However, to ensure coordination between land use and coastal programs, S. 268 does require the state planning program to include methods of coordinating the state land use program with the state coastal zone program. S. 268 also requires that a state declared ineligible for funding under one act would be ineligible under the other.

Consideration of national land use policies: Within three years, the Council on Environmental Quality must report on the desirability of establishing national land use policies, with twelve possible national standards to be considered.

In the House

Five major bills to establish land use policy and planning assistance have been introduced and referred to the House Committee on Interior and Insular Affairs: H.R. 91 by Rep. Bennett (R-S.C.); H.R. 2942 by Rep. Young (D-Fla.) which is identical to Senator Jackson's proposal; H.R. 4862 by Rep. Saylor (R-Pa.) for the Administration (and identical to S. 924); H.R. 6460 by Rep. Saylor for himself; and H.R. 7233 by Rep. Meeds (D-Wash.). In general, environmental groups favored H.R. 6460 as a strong proposal containing detailed criteria for areas of critical environmental concern and subdivision regulation. On the other hand, many developers feared that such legislation would severely restrict growth and meeting the nation's housing goals.

After holding hearings and several mark-up sessions, the Subcommittee on Environment of the House Interior Committee issued Subcommittee Print No. 1 on June 15. Titles I, II, and IV deal with non-federal land use planning while Title III outlines policies for public lands. This was largely taken from former Rep. Aspinall's bill, H.R. 7211, of the 92nd Congress, which was strongly opposed by environmentalists.

Mark-up by the Subcommittee is not yet complete. While most provisions of the House bill are essentially the same as the Senate bill (refer back to preceding analysis), *chief differences* between the Senate passed bill (S. 268) and the House bill (Subcommittee Print No. 1 with markup changes as of August 9, 1973) are described below.

The Senate bill differentiates between a state planning process and a state planning program (or implementation). The House bill places both categories under a general "state planning process."

Criteria for approval of state planning process: The House bill has an additional requirement that a state's planning process must contain *explicit substantive criteria* to guide land use in areas of critical environmental concern. Examples of factors to be considered include: the value of wetlands for water storage and retention, for wildlife habitats for food sources, for recreation, for sedimentation control, and for shoreland storm protection; and the susceptibility of wetlands to permanent destruction.

Criteria for approval of implementation phase of state process: Each bill has major differences. The Senate bill requires regulation of developments exceeding 50 units in rural areas while the House bill leaves the scale and location of development to state discretion. In addition the House bill also requires 1) assurance that topsoil, healthy trees not located in the way of proposed contruction, and the natural contours of the land will be preserved and 2) local regulations must not restrict development of regional or *national* benefit (such as power plants).

Penalties for failure to develop state planning process: The strong sanction requiring imposition of a phased reduction in federal funds for airports, highways, and land and water conservation

grants is also included in the House bill.

In addition, specific language requires that a state's planning process must provide for a full range of housing opportunities on a regional basis, if the state is to continue receiving grants after the initial three-year period.

Federal funding: $185 million is authorized to states over three fiscal years:

1st fiscal year - $35 million, up to 3/4 of costs
2nd-3rd fiscal years - $75 million per year, up to 3/4 of cost

No separate grants for coordination of interstate planning, or training and research are included. However, a total of $14 million over three fiscal years is authorized for Indian tribes.

Public lands (not included in the Senate bill): Establishes general policy and requires land use plans for federally-owned lands. Also requires regulations for specially designated areas of critical environmental concern.

A Look Ahead

The House Interior Committee, once the Subcommittee completes mark-up, may report out a bill in fall 1973. Unless the Rules Committee holds up the bill, a House floor vote could come before the end of 1973. The conference committee stage could take place by the end of 1973 or could be delayed until the second session of Congress, leaving land use policy and planning legislation an important and crucial issue in 1974. However, the outlook for passage of land use legislation in 1973 or 1974 remains strong.

Emerging Issues

Testimony at the 1973 House and Senate hearings revealed basic questions (which reflect differing views on the requirements of a national land use policy):

- In land use planning and regulation, what is the proper relationship between federal, state, regional, and local government levels?
- How much control should Congress and the executive branch exercise over state and local planning?
- How will the public participate in the development, review, and implementation of land use plans?
- What should a state land use planning process and program contain?
- How can social priorities, such as minority and low cost housing, best be reconciled with environmental provisions emphasizing the preservation of underdeveloped areas?
- What implementing powers should the state land use agency have to control land use?
- Which federal agency or agencies should administer grants for state planning?
- Should there be penalties for failure to develop a state plan or will incentives (grants-in-aid) be sufficient?
- How can national values and growth policies be expressed through a national land use policy? What national values and growth policies should be expressed and in what order?

WHAT STATES ARE DOING: EMERGING LAND USE POWERS

Following is a sampling of recent land use laws which document the "quiet revolution" in land use control -- a trend toward state control over selected areas and activities with greater than local impact. Dates indicate year of enactment.

California: Coastal zone conservation plan must be prepared (1972). Permits required for all development in coastal zone. Environmental impact statements required for major developments, private as well as public (1972).

Colorado: State land use commission must prepare a statewide land use regulatory system, with interim discretionary regulations for particularly harmful projects (1971). Localities must regulate subdivisions according to state guidelines (1972).

Connecticut: Permits required for development and dredging in coastal wetlands and waters (1969).

Delaware: Coastal zones regulated with ban on heavy industry within 2 miles of shoreline. Permits required for all other manufacturing uses (1971).

Florida: Regulations must be prepared for areas of critical state concern (no more than 5% of state's total land area) and development of regional impact; state also required to prepare statewide land and water plan to guide social, economic, and physical growth (1972).

Georgia: Permits required for altering coastal marshlands (1970).

Hawaii: Statewide land use zoning for four categories of use: urban, rural, agricultural, forest and water conservation. State permits required for rural, agricultural, and conservation zones (1961).

Indiana: Statewide land use plan must be prepared.

Maine: Permits required for altering coastal wetlands and critical shorelines (1967, 1971). Licenses required for any developments over 20 acres (1970). All lands in unincorporated areas must be regulated according to specific standards. Land use plan classifying lands into protection, development, and holding districts must be prepared (1972).

Maryland: State regulates activities on state-owned and private wetlands (1970).

Massachusetts: Permits required for alteration of critical inland and coastal wetlands. Coastal zone plan must be prepared (1963-68). Zoning to encourage dispersion of low-income housing (1969).

Michigan: Plan for Great Lakes shorelands must be prepared. State permits for development in high risk erosion areas and critical environmental areas required if localities fail to act (1970).

Minnesota: Sets zoning standards for floodplains (1969). Requires regulation of critical historical, cultural, esthetic, or natural areas of greater than local significance (1973).

Montana: State regulates floodplain development if localities fail to act.

New Jersey: State permit required for any alteration of coastal wetlands (1970).

New Mexico: State sets minimum standards for county regulation of subdivisions over 5 lots (1972).

New York: Permits required for private development over 5 acres in Adirondack Park (1973). State Urban Development Corporation can override local zoning to construct regionally beneficial development. Controversial 1973 amendment allows local governments to veto such development.

North Carolina: Regulations must be adopted to protect coastal marshes and contiguous lands (1971).

Oregon: State may issue permits for activities of statewide significance (public transportation, water, solid waste, and educational facilities). State must adopt guidelines to be used by local governments in preparing land use plans. Localities must also regulate all subdivisions over 4 lots. If localities fail to act, state may step in (1973).

Rhode Island: State permits required before the ecology of any salt marshes can be disturbed. State can also restrict uses on coastal wetlands (1965). State permits are authorized to control all coastal activities based on a comprehensive plan (1971).

Tennessee: State development plan must be prepared.

Vermont: State land use plan with regulations for each use must be prepared and adopted. Permits required for sale or development of 1) lots over 10 acres under 1,500 feet in elevation 2) lots over 20 acres under 2,500 feet in elevation. Review by district environmental commission required for development above 2,500 feet in elevation (1970).

Virginia: State permits required for use of wetlands if localities fail to act (1972).

Washington: State must adopt guidelines for development of local shoreline plans and permit systems and for state review of local permits. State can issue permits directly for shoreline developments in excess of $50,000 (1971-72). If localities fail to regulate other developments, state may step in.

Wisconsin: If county governments fail to zone all unincorporated shoreland areas according to state guidelines and review, state may step in. Areas must be zoned as conservation, recreational-residential, or general purpose districts (1965). State criteria for local floodplain zoning must be set. State subdivision review authorized.

(Sources: Land Use Planning Reports, Vol. 1, No. 1, Mar. 12, 1973, pp. 6-9, Plus Pub. Inc., 2814 Pa. Ave., N.W. Wash., D.C. 20007. State Action on Local Problems, Advis. Com. on Intergov't. Relations, Apr. 1973, 70¢, postpaid; U.S. Govt. Print. Off., Wash., D.C. 20402.)

STATE LAND USE AND THE CITIZEN: THE LEAGUE OF WOMEN VOTERS AS A CASE STUDY

WHAT STATE LEAGUES ARE DOING

Alaska: Study of proposals concerning lands whose disposition is determined by Alaska Native Claims Settlement and the Statehood Act.

Arizona: Study of problems in Arizona, with emphasis on land use and interrelationships of land use and water.

Colorado: Study of land use in Colorado with consideration of each level of government. Support of integrated environmental planning including balanced transportation and measures to insure wise use of water resources.

Connecticut: Support of policies and procedures which promote comprehensive long-range planning for conservation and development of land and water resources.

Hawaii: Support of comprehensive planning, with public input, insuring coordination and cooperation between state and counties; strict controls; protection of natural resources.

Idaho: Study of state land use planning. Support of management of Idaho's endowment lands to produce maximum revenue consistent with good land use use; protection of environment and future values; and management policies for 3 watershed areas.

Illinois: Study of how tax system might be revised to encourage sound land use decisions. Support state-wide land use policy.

Iowa: Study of state land use planning.

Kansas: Study of land use policies and procedures and their relationships to human needs, population trends, and ecological and socioeconomic factors.

Kentucky: Support of state responsibility for management of natural resources: major emphasis on strip mining, severance tax, water resources, air pollution.

Maine: Support of wise use of air, water and land.

Maryland: Study of land use in Maryland.

Michigan: (See Kansas' wording)

Minnesota: (See Kansas' wording)

Nevada: Support of a state land use authority's establishment, regional agencies to coordinate local/state interests, state planning policy to include environmental impact studies.

New Hampshire: Study of land use planning in New Hampshire and its impact on citizens.

New Jersey: Study of plans and policies affecting use of land and relationship to environmental quality, social, and economic needs.

North Carolina: Study of land use planning. Support of land use policies of statewide and regional application.

North Dakota: Study of land use in North Dakota with a view toward identifying problems and possible solutions.

Ohio: (See Kansas' wording)

Oregon: Study of land use in Oregon, with emphasis on private and public rights and responsibilities. Support of urban and regional growth positions.

South Dakota: Study of land use in South Dakota.

Vermont: Support promotion of quality environment through protection of air, land, water, and scenic resources.

Washington: Support of coordinated planning and enforcement for ensuring environmental quality in use of water, air, and land resources.

West Virginia: Study of land use, including timbering and planning.

Wisconsin: (See Kansas' wording)

Wyoming: Study of environmental quality in Wyoming with emphasis on land use, air, and water.

(From Adopted State League Programs, 1973-74, compiled by the State and Local Government Department.)

WHAT STATE LEAGUES ARE SAYING

Colorado: State government must be structured to insure integrated planning for environmental management. A centralized authority, with qualified leadership, should be established at the state level which would be accountable for decisions which affect the environment.

Environmental decisions should be based on the following criteria (in order of importance):
--creation of a healthful environment which takes into account the quality of life and provides greatest benefit to the greatest number of citizens, present and future.
--recognition that long-range ecological effects have greater importance than short-term problems.
--industrial growth which is evaluated carefully for environmental impact with recognition given to the varying needs of different geographic areas.
--consideration of population distribution and growth, and conservation of natural resources...

The state should set minimum standards for environmental concerns. State government should have powers of enforcement for broad general planning and for decisions of statewide impact such as air, water, land use, health, and location of large-scale industry. Local and regional entities should be permitted more specific planning powers compatible with state planning...

The public should be involved in environmental decision-making early in the process. Procedures should be established which offer alternatives. Public hearings should be held throughout the state.

Hawaii: Land use decisions should be based on comprehensive planning:

--government should decide on consistent and coordinated policies to guide Hawaii's development. Joint policy decisions are needed in the area of controlled growth, controlled new urban centers, open space, and amount of land needed between 5-year reviews...

--citizens should have opportunities for public input into the planning process at all stages and all levels of decision-making.

--a device to ensure coordination and cooperation between counties and state in planning and plan implementation. Counties should have responsibility for detailed planning and control of land uses. The state should provide the broad, overall review, guidelines to reconcile conflicting goals of counties, and restraints on overly permissive county action.

The following are important considerations in designating land for urban use: comprehensive planning; state and county policies; the environment--physical characteristics, hazards; agriculture; control of speculation, or at least not contributing to it; economic impact--amount of public services needed and availability of services, jobs, business; social impact--life style, effects of changing job base; achieving balance.

Purposes and uses of conservation lands:
--certain lands should be identified and set apart for the purpose of true preservation.
--conservation lands should not be subject to drastic changes. There should be strict controls on landsuses in the conservation district in order to preserve terrain and character of surrounding areas and protect natural resources.
--counties should participate in decisions about land uses in conservation districts.

Idaho: Idaho's Endowment Lands should be managed to provide the maximum revenue for public schools and other endowed institutions to the extent that this is consistent with good land use practices, protection of environment, and preservation of future values.

To achieve these purposes:
--a moratorium on endowment land sales until all such lands are inventoried and classified
--establishment of long-range management policies
--consolidation of endowment lands to form better management units
--acquisition of in-lieu lands to which Idaho is entitled
--special consideration for endowment lands which are unique because of historical, recreational, or other values.

In order to achieve optimum long-range management of Idaho's Endowment Lands, adequate funding should be made available through increased legislative appropriations combined with a percentage of the income from the endowment lands.

A State Land Board should concern itself with establishment of policy while actual management of endowment lands should be entrusted to Department of Public Lands. Membership of the Board should include a representative for education and persons with expertise in land management.

Illinois: There is a definite need for a comprehensive land use policy in Illinois. Goals of such a policy should provide for orderly growth while preserving the environment and conserving natural resources. Preservation of open space should have a high priority among land use goals. Goals of our land use policy should affirm availability of land for low and moderate income housing.

The state should establish the long range goals of a comprehensive land use policy and identify and plan for all critical areas. State should develop standards and broad guidelines for land use, but local government should make purely local decisions. State should have final authority over key and critical areas within the state. State should assist local governments with professional help and should facilitate intergovernmental cooperation.

A state agency with adequate staff and funding should be responsible for forming and implementing land use decisions. At every stage of land use planning there should be opportunity for citizen input. Tax revisions must take place for the planning and zoning procedures to work at their optimum.

The State should plan for adequate supplies of low and moderate income housing. Builders of large developments and planned unit developments should be required to provide a percentage of units for low and moderate income housing. Some kind of fair share plan should be developed so that every community would have a percentage of low and moderate income housing. It should not be concentrated in just a few areas of the State. This kind of housing should be subsidized at both the state and federal level and tax incentives should be provided for builders. It is important that this housing be attractive and diversified in design. Must be an educational program to explain the need and concept of low and moderate income housing. Citizens should be able to participate in the planning and in the decisions. When necessary, zoning laws should be revised to accommodate development of low and moderate income housing.

Conservation of resources must be the enunciated policy of the state, and citizens must be made aware of role they can play in preservation. Comprehensive land use planning and citizen education are two main thrusts if we are to harmonize growth and preservation.

...favors regional planning and regional planning agencies. Funding for regional planning agencies should be continuous and mandatory and should come from local, regional, and state sources.

Maine: Present land use regulations in Maine should be coordinated and strengthened and statewide goals should be set.

Growth should be controlled in Maine. Opinions on how to accomplish this varied from a moratorium on land sales to special provisions for adequate dumps and parks.

Decisions for development and environment should be made and initiatives taken at the local or regional level, within the framework of state guidelines and/or a state plan. With respect to the environment, decisions should be made by state government.

Access to certain fragile areas should be limited. Among those noted are some elevations over 2,500 feet, salt marshes, peat bogs, fresh water bodies subject to eutrophication, sand dunes, salt and fresh water islands, state park areas, and wildlife habitats.

Preferential treatment in use of state land resources should be given Maine citizens.

Nevada: Present land use laws in Nevada are inadequate and need revision. A State Land Use Authority is needed with planning and control divided between state and local or regional agencies. Regional agencies would provide sharper understanding and be coordinating point between local and state interests. State policy should be adopted to insure planning programs at all levels of government, so there can be consideration given to natural resource capabilities with growth limited to capability of natural resources.

A State Comprehensive Plan should include the following factors: land use plan, open-space plan; aesthetic plan; environmental protection plan; transportation plan, which includes public mass transit; economic development plan; public demand disposition plan; utility corridors plan; wildlife areas plan; mining management plan (in terms of environmental factors); agricultural management plan; federal defense installations plan (in terms of environmental impact); water management basin plan; air pollution airshed plan; public facilities plan; flood control plan; new communities plan; and a housing plan which will assure integrated housing, mixture of all economic levels of housing, proximity of shopping areas, etc.

State agency should be able to provide overall, objective viewpoint on planning, setting standards, establishing criteria, especially in recognizing "critical concern" areas. Specifically, state should establish regulations governing areas of critical environmental concern, such as floodplains, scenic and historic areas, watersheds, high seismic activity, etc; areas impacted by key facilities such as airports, major highway interchanges, recreation lands, major energy development projects; proposed large-scale developments having a significant effect on the environment and development and land use of regional benefit which might be excluded by restrictive or exclusionary regulations. If need be, the state should have authority to override a local or regional decision, with more stringent regulation being applicable; a state review board is recommended for this purpose. There is a need for the state to develop a mechanism to acquire lands of critical concern; through purchase, exchange, bond issues, trust funds, etc.

North Carolina: Supports land use policies of statewide and regional application which would effectively guide development to meet human needs and would also effectively conserve resources and protect the natural environment. State government should assume responsibility for the following:

--To formulate and implement comprehensive state land use policy or set of policies in accordance with well-defined state goals;

--To prepare land resources inventories and keep them updated, with emphasis on land capability;

--To identify critical areas and provide for their protection from unwise development, including development which would result in predictable and unjustified costs to taxpayers. Critical areas include fragile ecological systems, steep slopes, floodplains, and dunes;

--To designate a clearinghouse and coordinating agency for land use policies of other state agencies, federal and state expenditures affecting land use, and regional and local planning efforts;

--To require that localities, city and county government, do long-range planning and implementation according to state guidelines and in cooperation with regional planning offices;

--To provide technical and financial assistance to local governments in setting their own community goals and developing land use policies and controls to achieve these goals within the framework of regional and state goals;

--To acquire and hold lands for public purposes in fee simple and also to acquire certain selected property rights in land by use of such devices as easements, leases, and options. "Public purposes" should include not only health, safety, and welfare, but recreation, housing, industrial siting, aesthetics, and environmental protection;

--To coordinate location of transportation and delivery systems such as utility rights-of-way, power plant siting, and dams;

--To study and recommend property tax and appraisal methods to further state, regional, and local land use goals. Preferential treatment on property tax should be granted only in exchange for public acquisition of some property right or some public service deemed necessary or desirable;

--To seek citizen participation at all levels of government, at formative stages of all major development projects. Wide publicity, public hearings, public consultation with local governments and regional planning agencies, and broad citizen representation on policy-making boards at all levels should be used.

Oregon: Supports concept of comprehensive planning on regional basis. Such comprehensive planning includes statement of goals, determined with citizen participation, and balance of the following inter-related studies: natural environment, social, economic, public facilities and services, aesthetic, land use and zoning.

Citizen participation, education, communication and on-going re-evaluation are essential elements in the comprehensive planning process.

Essential characteristics of an effective regional planning agency are:
--a membership which includes socio-economic balance and both governmental and non-governmental representation
--qualified staff, representing balance of social and physical disciplines
--established procedures for public meetings and hearings, horizontal and vertical coordination and communication among planning agencies and citizen advisory groups
--enforcement and taxation authority remaining with each local governmental unit.

Recognizing need for effective citizen participation, the following factors should be considered in establishing citizen advisory groups:
--representation on broad socio-economic basis
--appointment for specific project with specified goals and terms, and provision for adequate orientation to purposes of agency
--provision for communication among citizens, citizen advisory groups, and planning agencies.

Washington: Uniform guidelines and procedures should be established at state level for local planning and implementation. State should have the authority to designate areas of critical concern and require that use of such areas conform to statewide guidelines. State planning should be coordinated and interdisciplinary in nature. Environmental impact statements for all land use decisions by governmental bodies should be mandatory and well publicized.

All known factors should be considered in making land use decisions and first consideration should be given to the effect upon natural elements. Those activities dependent upon natural elements must be balanced with needs of people. Uniqueness or scarcity, importance to the community as a whole, promotion of health, safety and welfare, and irreversibility of the decisions should be considered in resolving conflicts in each case.

Single state body should be charged with creating a statewide comprehensive land use plan, composed of long-range goals, policies, and guidelines. All decisions made by other state agencies should be consistent with the plan. State plan should include policy on urban growth. Individual citizens and representatives from local and regional governmental bodies should participate in formulation of state land use plan.

State assistance to local government in planning should include information services, technical assistance, and adequate financial resources.

Regional authorities within state are useful in resolving problems which transcend boundaries of smaller jurisdictions. Regional authorities should have ability to resolve conflicts among jurisdictions and implement plans of regional scope.

(Summarized from selected State League positions)

THE COLORADO STORY - 1973

"The most important moment in the life of Colorado is your land use fight. This is the most difficult battle you are going to wage, and it is one, if you lose it, that you might as well write off for future generations. If you don't have these protections, then this generation is going to use up the land."
(Oregon Governor Tom McCall speaking in Colorado Springs, Colo., June 16, 1973.)

The valiant but unsuccessful efforts in 1973 to secure land use control in Colorado is a story worth sharing. It demonstrates the complexity of conflicts and the depth of concern over land use. It also brings into sharp relief tensions inherent in efforts to realign governmental roles.

Background

For several years the protect-or-preserve Colorado movement has been gaining momentum. Colorado has inherited special geologic and topographic conditions--steep, rugged mountains in the west and flat plains in the east. Because Colorado is a semi-arid state, water is a highly-valued resource. Thus, every new development must compete with agriculture for water. Colorado also holds important supplies of timber, oil shale, coal, molybdenum and other rare minerals. Finally, Colorado's scenic beauty and dry climate have attracted both vacationers and permanent settlers in unprecedented numbers.

Such critical environmental concerns as steady growth from immigration, unplanned urban sprawl, rampant development of recreational property, and reluctance to recognize the ecological impact of all growth factors were leading to a growing sense of urgency about the environmental management of the state. Lack of consistency in local control, obsolete planning practices, and conflicts in planning among local governmental units contributed to this concern. The depth of feeling was evident in the 1971 attempt by the city of Boulder to pass a ballot issue limiting its population to 100,000 persons. The measure was defeated by a narrow margin. Then in 1972, voters dramatically rejected a state ballot issue to fund holding of the 1976 Olympic Games in Colorado.

Movement had really begun in 1969 when the Governor called attention to the need for state land use planning. As a result, state land use legislation was passed, establishing the Colorado State Land Use Commission to develop a land use system for the state and to make its final report by Dec. 1973. Its interim recommendations (as well as those of a state Environmental Commission) led to General Assembly passage of several bills in 1971 which strengthened local planning practices. Late in the 1972 session the legislature passed a local planning and subdivision control bill, SB 35, which 1) requires developers to

prove to County Commissioners that proposed subdivisions have adequate water supplies, sewerage, and land for schools and parks and 2) directs each county to create a planning commission and regulate subdivisions.

Legislators initiate land use bill

In his January state-of-the-state message, the Governor gave land use legislation high priority. A bipartisan group of state legislators from both houses decided early in the 1973 legislative session the time was ripe for enacting statewide land use control legislation. Convinced that there was a "mandate from the people" for strong control, they decided not to wait for the final recommendations of the State Land Use Commission. Instead, they began the lengthy process of drafting a bill to provide comprehensive land use policy. The outcome: Senate Bill 377, the Colorado State Policies Act. The bill was introduced April 6, 1973--which proved to be rather late in the session for the debut of a major controversial bill.

Provisions of bill: The bill, as introduced, affirms that most land use planning is and should be conducted at the local level. At the same time, it defines a number of areas and activities deemed to be of "statewide concern,"* recognizing that some of these, by their critical nature, can no longer be regulated locally. The bill

- --establishes a five-member commission, appointed by the Governor with the consent of the Senate, to act on matters of statewide concern*, with the power to disapprove local land use regulations;
- --requires local governments to submit applications for land use of state wide concern to Commission for review according to state policies and standards;
- --further defines the planning responsibilities of twelve regions established by the governor in 1972: each regional commission (a combination of two or more counties) to review requests for federal or state funds for projects anticipated to have a land use impact within its area and to prepare a detailed land use plan for that area by September 1, 1974;
- --allows for regulation at the regional level of certain activities and areas of concern if the regional plan meets with State Commission approval;
- --gives State Commission authority to approve, disapprove, or exempt any and all adjustments of jurisdictional boundaries including incorporations, annexations, and water and sewer districts. (This last provision proved to be a major element in defeat of the bill);
- --provided for an appropriation of $2.6 million, of which $450,000 were earmarked for the expenses of the State Commission and $2.2 million for distribution to the Regional Commissions for the purpose of planning.

Pros and cons aired at Senate hearings: The Senate Local Government Committee, to which the bill was referred, held 14 hearings. Varied points of view toward land use control surfaced, many of them vague, individual expressions. As the hearings proceeded, major outlines of support and opposition began to emerge.

The proponents* stressed that in order to structure state government to insure integrated planning for environmental management, a centralized authority should be established at the state level. This body would have the powers of enforcement for broad general planning and for decisions of statewide impact along with specific planning powers for local and regional entities. Proponents also held that a coordinated effort of local, regional, and state resources is needed to adequately guide the long-range effects of urbanization and to prevent future environmental deterioration and costly remedial measures. The state, according to the supporters of state land use control, could encourage comprehensive planning; adequate provision of public facilities; careful location of large developments; identification and protection of scenic, fragile, and special wildlife areas; and communities in coordinating their land use objectives with each other.

Much of the opposition was expressed in terms of the individual losing the right to do with his property as he wishes. Cattlemen, farmers, developers, and builders** expressed fear that their land would be taken for open space or devalued as potential development sites. One rancher emphasized that when you talk about regulating property rights in the case of the farmer, you are dealing with his means of livelihood, not just his residence.

* Areas of statewide concern include: 1) the so-called "front-range" of Colorado, which marks the sudden change from the Great Plains to the steep slopes at the edge of the Rocky Mountains. The flat portion where most of the state's population lives has undergone most intensive development and is rapidly becoming a 120-mile long city, running N-S. Such problems as air pollution, traffic congestion, and inadequate open space and water are growing; and 2) all "hazard" areas (e.g. unstable land masses, floodplains, avalanche and high wind areas). Activities of statewide concern include water and sewerage extensions; oil shale development; clearcutting and strip-mining operations; highways; airports; ski areas; power plants; nuclear detonations; and large commercial, residential, and industrial developments.

* Major supporters were the Colorado Open Space Council (COSC) and the Colorado League of Women Voters. (COSC membership includes the Colorado League of Women Voters as well as such environmental groups as the Sierra Club, Audubon Society, Colorado Mountain Club, etc.)

** In addition, official opposition was registered by the Real Estate Lobby (although a few individual realtors supported the bill).

Rural representatives saw the bill as yet another threat from Metro Denver to dominate state policy although the city of Denver proved to be an active lobbyist against the bill. Local officials* feared encroachment on local independence, adding one more unnecessary level of decision-making. The "hazard areas," it was contended, could embrace whole counties causing even local building and remodeling permits to be approved by the state.

Another frequent criticism was that the bill was untimely or even precipitous in ignoring planning gains already achieved. "Give SB 35 (the 1972 planning and subdivision regulation act) a chance to work" became the rallying cry for the opposition to the new land use bill. "We're just getting organized; we're hiring our planners and making our land use plans." (It should be noted that these same interests violently opposed the passage of SB 35). Most of those testifying said "We need something but not this bill."

Compromise bill emerges: A compromise bill emerged from the Senate Local Gov't. Committee, still containing the major elements and giving the state a powerful role in future land use decisions as well as a strong regional component.

Most of the amendments stemmed from concern about the powers of a state commission. The lack of accountability to the voters, the large amount of power vested in so small a body made it a "lightning rod" that attracted opposition. There was strong feeling in the Senate committee that the state should not make direct land use control decisions without significant input from local government. Yet, the committee wanted to retain a state commission as ultimate review authority. So the bill was changed to provide that "activities of state concern," "boundary changes," and "hazard area" applications would be considered first at the regional level, with the state retaining the option to review. The only exception would be direct state consideration of open space changes in the "front range," an area of critical environmental concern.

The amended bill trimmed the commission's power in another way. The state could not issue any order or regulation which constituted the taking of property without compensation.

Further dilution: The bill then went to the Senate Appropriations Committee. (All bills having a fiscal impact must go to the Appropriations Committees of both houses for assessment of this impact.) Opponents of the bill succeeded at this stage in strongly diluting the control powers provided in the bill. The Committee also added $4 million for hazard area identification to the appropriations figure (making it a total of $6.5 million), despite proponents' protests that the original estimate of $2.5 million was an adequate amount.

As introduced on the Senate floor, the bill bore little resemblance to the original measure. The State Control Commission was increased to thirteen members, with many of its powers curtailed. Although substantially weakened, the bill still articulated state policy, identified hazard areas, mandated master plans, and retained control over boundary changes.

On the Senate floor: On June 8, 1973 after much debate and numerous amendments, the Senate passed a yet more drastically altered bill by a vote of 32-2. The State Control Commission was deleted -- the state's role limited to providing financial and technical assistance to local government. Gone, too, was any state control over boundary changes. The strongest requirements in the bill were now a dozen broadly-stated policy items and a mandate that the regional commissions develop master plans by 1975.

House strengthens bill: The House Local Government Committee rewrote the Senate bill and returned broad regulatory powers to the regional commissions. One legislator said it was "like filling up the holes in a swiss cheese." This committee's version gave each of the thirteen regional commissions power to review and regulate (by issuance of permit) open space changes caused by development. They could also regulate development within hazard areas and boundary adjustments. But lost altogether was the highly controversial state control commission. The House quickly gave its approval to this strengthened measure.

Compromise fails: Several days of conference committee meetings and floor debate were not sufficient to resolve the differences between House and Senate versions of the proposed land use control bill. When the two houses reconvened on June 29th, the Senate refused to consider the compromise bill drafted in conference during the legislative recess. It reverted to its own originally passed version instead, but even that failed on a 18-13 vote. So as the 1973 session came to a close, the state was still without land use controls.

Citizen Groups: the League in Action

The League of Women Voters of Colorado was one of the major citizen's groups to take an active part from beginning to end in the unsuccessful campaign to secure passage of the 1973 land use bill. League action was based on a state position arrived at in 1971, "The Role of the State Government in Environmental Planning and Management," which held that the state should have strong planning and management powers.

* The County Commissioners Association did not oppose the bill officially but worked constantly to secure more power for the counties as the bill went through its successive changes. The Municipal League, although they followed the bill, did not take formal positions.

Immediately upon deciding to back SB 377, the state League set to work at 4 levels:

With coalitions: principally the Colorado Open Space Council (COSC).
Within the League:
--a League strategy committee mapped out a plan and worked out tactics;
--a small lobbying corps (four member team) combined expertise in the fields of land use, environment, local government;
--the membership became informed and involved by receiving
  .a COSC summary of the original bill and an update
  .updates via the LWV Colorado biweekly legislative newsletter
  .general call to action--a notification that this was more than a formal let-the-board-send-a-letter kind of campaign.
In the community: a press conference (A statewide land and water seminar had served earlier to acquaint people with the issues.)
In the Legislature: action was tailored to the bill's progression through Senate and House and concentrated at the outset on establishing rapport with the chairmen of the Senate Local Government Committee (LGC). League members from each of the districts of the LGC members were designated as contact points.

In short, the Colorado League was "in there" at each stage of the legislative battle, working actively to keep up with the fast moving events. It considered the Senate committee bill a reasonable compromise but became alarmed at the changes the bill was undergoing in the hands of the Senate Appropriations Committee. Growing apprehensive that the bill would not get out of committee, the League talked to every member of the Appropriations Committee, sending telegrams to some of them. But there were only a few hours to do all this. At the last hearing, the Appropriations Committee attached a price tag of $6.5 rather than the original $2.5 million. It also diluted the state control provisions, by giving the regions power for major decisions, a move which enabled the bill to be voted out of committee.

When the bill came to the Senate floor, the League attempted to restore some of the original provisions and to forestall moves to further weaken the bill. Local Leagues contacted their senators (with priority on the uncommitted) to urge them to support a stronger bill. The version which finally passed the Senate was stripped of so many key provisions that the LWV stated publicly it could not longer *fully* support the bill. In some of the press coverage the word "fully" was left out, causing confusion as to where the League stood. League lobbyists persisted and succeeded in their efforts to get the House Local Government Committee to restore some provision for state control to the bill. By the time the bill reached the House floor, legislators were in no doubt that the LWV stood in favor of a strong revision.

The League soul-searches: After the session was over and the bill defeated, League members could assess the citizen effort. "What a hassle it all was for volunteer lobbyists. Can you imagine, only one copy of the final House version was available." It was a twenty-four-hour-a-day job without enough people to do it. Trying to follow all the committees, getting information on their actions, and buttonholing legislators who did not have offices proved insurmountably difficult.

Did the League do enough? Could they have done more? Hindsight told them, for instance, that they should have lobbied the Senate Appropriations Committee from the outset.

Another almost impossible job was determining where the opposition was, what it was up to and how to counter it. For example, in the final days of battle on the bill, the LWV lobby was surprised by the opposition of the City of Denver. Denver was protecting its rights of annexation but, as League members pointed out, one would think the city was tired of all the law suits stemming from annexation proceedings and would welcome a measure bringing some order and constructive control.

Colorado League leaders feel that the land use legislative battle will prove to be beneficial. More people do know about the key issues, thanks to intensive press coverage and wide discussion.

Rather than brooding over defeat, the League expects to build upon it. The legislative session, along with all the furor it caused, turned out to be a great educational experience. "We lost, but we're way ahead." "All we have lost is time." "The legislature is a lot more educated." "Our members are, too."

Where was the mandate of the people? It would appear that Colorado citizens were not ready for such a complex, strong measure. The comprehensiveness of the proposal generated controversy and confusion. It was suggested that the way to legislative progress was through a series of bills rather than putting everything -- state policy, state control, annexation control, *and* regionalism -- all in *one* bill. As Oregon's Governor McCall observed in June, 1973 in Colorado Springs, "putting all land use controls in one bill is not the smartest thing in the world because the enemies of wise land use -- those who are afraid of the idea of controls -- will focus in and zero in and they'll pick off the whole bill and you'll be left with nothing but a vacuum."

Legislative hindsight: One of the major problems that surfaced from the legislative fight was that the bill came too late in the session. When it reached the House, there was not enough time to work out an acceptable compromise with the Senate.

How to effect reasonable compromise is a critical element in the land use picture. Do you include

the opposition in the drafting period rather than waiting for it to surface when the bill is presented? The original drafting committee for the bill was composed almost entirely of men dedicated to the concept of state control.

Another unforeseen problem was the Colorado Land Use Commission's (LUC) active opposition to the bill. The LUC felt it had been bypassed since its final recommendations were not due until December, 1973. When the bill was introduced it joined the fight to defeat it. The Commission claimed that the legislature was too impatient with the land use concept and had introduced an "explosion of state control."

What the future holds

The Colorado land use story is not over. A Citizens Advisory Committee (with a League member as vice chairman) has been appointed to advise an interim committee of the Legislature which will draft land use legislation for possible introduction into the next session, in January 1974.

Meanwhile the Land Use Commission needed help in order to meet the December 1973 deadline for a final report. So it contracted with a consultant for five months' analysis on land use controls in Colorado, with an interim report due in October and a final report, December 1, 1973. The survey is designed to:
.define the key issues of state concern
.identify alternative land use policies
.define and outline responsibilities of state and local governments in land use control and to suggest specific legislation to apply at each level of government
.study citizen attitudes
Further study, debate, and understanding is called for concerning the far-reaching effects of a realignment in governmental land use roles. Public dialogue, for example, is sorely needed especially on the issue of property rights. There also needs to be more exploration of innovative approaches such as land banks and sale of development rights. Clearly, the jurisdictional conflicts created by the idea of state control must be examined and discussed with sensitivity and understanding. The whole concept of regional governments, how strong they should be, how large, how organized, what role they should play, needs to be thoroughly explored. Finally, the composition and powers of the controversial commission will have to be discussed at length.

To meet these needs, the League of Women Voters of Colorado has adopted a new state land use study and is making plans for a public education program. Local seminars will be held to acquaint citizens with land use problems and explore the multifaceted issues that grew out of proposed state land use control. Representatives from various groups with differing interests in land use will be an integral part of the program. Attitudes reflective of the mini-community--economic, cultural, social--are to be taken into account, along with the broader, statewide view. The League hopes agreement will emerge on a set of minimum requirements.

THE ALASKA STORY - 1973*

One of the major issues in land use is publicly-owned lands--federal, state, and local--how they are currently managed and what their effect will be on future, long-term planning. Because the state of Alaska is approximately 95% publicly-owned land, a look at Alaska's land use planning could provide insight and answer questions (or raise others) for citizens throughout the country who are concerned with land use.

Many states will be struggling with the problems of overcoming and reversing past land use mistakes. However, land use planning in Alaska is unique from that in most of the other states, because it has practically virgin land.

Although the vast wilderness of Alaskan land is unique, other characteristics establish common bonds with the rest of the U.S. Alaska is of interest to all Americans because it holds enormous quantities of hydroelectric and geothermal power, oil and other mineral resources which could help alleviate the energy crisis and our country's negative balance of payments. It is also important to many Americans as a source of the intangible values that come from breath-taking natural scenery and the serenity of the wilderness. Of Alaska's 375 million acres of land (one-fifth the area of the entire U.S.), approximately 90% is federally-owned; thus, to a large extent, the citizens of the U.S. are the owners of Alaska.

However, the ownership of Alaska will change considerably in the future, due to legislation recently passed by Congress. The Alaska Native Claims Settlement Act, enacted in December 1971, compensated Alaska natives with land and financial payments for extinguishing their aboriginal claims to Alaska's land. The land use picture is also affected by the Alaska Statehood Act of 1958, which granted the state the right to select 103 million acres of land. One-third has been selected to date. Both these laws have caused all Alaskans to take a new look at land use planning.

It is not possible to explain all the intricacies of the Native Claims Settlement Act, but here are selected aspects of special interest:

(1) Joint Federal-State Land Use Planning Commission: The commission represents one of the first attempts at rational planning for land disposition and management on a large scale. It is composed of ten members, five appointed by the Secretary of the Interior and five (one of whom must be an Alaskan native) selected by the Governor of Alaska. The commission is headed by two co-chairmen, the

* Based on a paper by Emilie Zasada, LWV of Alaska.

Governor of Alaska or his representative and a presidential appointee.

One of the primary functions of the commission is to develop an adequate data bank pertaining to natural resources and socioeconomic considerations upon which to base their recommendations. To aid them in this job, a Resource Planning Team of twenty-nine experts must gather and collate resource data concerning such matters as native subsistence requirements; population trends; and fisheries, timber, coastal zone, energy, and mineral resources.

The commission is charged with making recommendations to the Secretary of Interior about the areas that should be retained in federal ownership and lands that should be available for selection by the state under the Alaska Statehood Act. It is further charged to work with native corporations and the state and federal governments to avoid conflict in the selections of public lands. The commission must also identify public easements necessary to guarantee use and access of public lands.

Finally, the commission must evaluate the best uses of the land, regardless of ownership, and make recommendations on necessary and desirable changes in federal and state laws, policies, and programs.

The commission is utilizing many methods to obtain maximum public and professional input in their considerations. These include hearings, written submissions, questionnaires, seminars and public meetings, outside consultants, and periodic meetings with federal and state agency personnel.

(2) Native lands: The act provides for the ultimate conveyance of 40 million acres throughout the state to Alaska natives in fee simple ownership. The act calls for the formation of a business-for-profit corporation for each of the twelve regions covered by the operations of existing native associations. The regional corporations plus over 250 village corporations will manage these lands. Many natives still live a life of subsistence from the land, and areas of traditional hunting, fishing or berry gathering may extend beyond their legal lands. To maintain this life style for those natives who desire it, native subsistence rights outside of native lands must be protected.

(3) Federal lands: Perhaps of greatest interest to Alaskans and people in the rest of the country is the provision in the act that withdraws 80 million acres of land from public use (mining, timber-cutting, etc.) for possible inclusion in the "four national systems":

A. National Parks: administered by the National Park Service of the U.S. Department of Interior and established to preserve the finest examples of America's natural and cultural heritage for the enjoyment of present and future generations.

B. National Forests: managed under the multiple use principle by the Forest Service of the U.S. Department of Agriculture. Such areas have nationally-significant resource values which must be permanently protected and managed.

C. Wild and Scenic Rivers: administered by the Bureau of Outdoor Recreation of the U.S. Department of Interior, define three types of river areas. (1) Wild rivers are free of impoundments and generally inaccessible except by trail, with primitive watersheds or shorelines and unpolluted water. (2) Scenic rivers have largely primitive shorelines, with watersheds which are accessible in places by roads. (3) Recreational rivers are readily accessible by road or railroad and may have undergone some impoundment or diversion in the past.

D. National Wildlife Refuges: administered by the Bureau of Sport Fisheries and Wildlife of the U.S. Department of Interior, are established to ensure suitable habitat for all types of wildlife and to provide environments in which human relationships with land and wildlife are encouraged.

Decisions on the use of these 80 million acres of land are being made by the commission at the present time. Hearings were held this spring throughout Alaska and in four cities in the "lower 48" states. At these hearings, the developer was often pitted against the conservationist, with the citizen in the middle accepting the necessity of a viable Alaskan economy *and* adequate safeguards to preserve the environment. Concern was expressed about what activities (i.e., hunting, fishing, trapping, mining, industry, ranching, roads, and oil and gas prospecting) would be allowed under each of the "four systems." There were accusations that decisions on the 80 million acres are being made too quickly and that adequate resource data is unavailable for making wise decisions at this time. The commission is presently reviewing the comments expressed at the hearings and will make final recommendations to the Secretary of the Interior, who will submit his recommendations to the U.S. Congress in December 1973. Congress will have until 1978 to act upon these and any other recommendations.

Thus far, the League of Women Voters of Alaska has concentrated its activity on citizen education. Public meetings were held, educational materials published, and testimony presented to the commission summarizing points made at a League-sponsored conference. The state League has now adopted Land Use as a study item and will be able to provide more specific input into shaping the future of Alaska's lands.

As legislation goes before the state and the U.S. Congress, Alaskans have an unparalleled opportunity to plan wisely for their land "before the fact."

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THE IMPACT OF POPULATION GROWTH. Apr. 1973. 38 pp. 75¢ plus 12¢ postage. LWV-Baltimore County, 7800 York Rd, Towson, MD 21204.

RELATED NATIONAL LEAGUE PUBLICATIONS

COMMITTEE GUIDE NO. 1, The Land Use Component of Environmental Quality and Human Resources. Pub. No. 258. 1972. 2 pp. 15¢. Explores the EQ-HR implications of a land use study.

COMMITTEE GUIDE NO. 2, Getting a National Perspective on Land Use Issues. Pub. No. 267. 1973. 6 pp. 35¢ Discusses changing attitudes toward land, key decisions to be made in developing national policy, the citizen's role, recent trends in the law, economic implications of land use control. Provides resource committees with a list of background readings and ideas on how to develop a study.

CURRENT REVIEW OF HUMAN RESOURCES, Issue I, Local Zoning Ordinances and Lower-Income Families--Goals in Conflict? Pub. No. 364. 1969. 24 pp. 50¢. Explores the meaning of exclusionary zoning and its consequences.

KNOW YOUR STATE. Pub. No. 137. 1969. 36 pp. 50¢. An outline for making a complete survey about the structure and functions of state government.

MORE? THE INTERFACES BETWEEN POPULATION, ECONOMIC GROWTH, AND THE ENVIRONMENT. Pub. No. 104. 1972. 44 pp. 75¢. Discusses new relationships between population, environment, employment, renewable and nonrenewable resources, national and regional economic development. Also ties in concerns for urban development, transportation, land-use policy, and national growth. (LWVEF publication.)

PLANNING IN THE 70s. Pub. No. 396. 1970. 28 pp. $1.00. Complete guide for municipal, county, and metropolitan planning, with particular emphasis on social implications of local and regional planning; selected reading and source list. (LWVEF publication.)

SHAPING THE METROPOLIS. Pub. No. 133. 1972. 36 pp. 60¢. Quotes from a conference on decentralization and regionalism as alternative means of making government in urban areas more responsive and effective. (LWVEF publication.)

Watch for a new LWVEF publication on metropolis around January 1, 1974. It will report citizens' and officials' attitudes toward regional planning and decision-making; as revealed in a recent survey of 26 urban areas.

The above can be ordered from the League of Women Voters of the United States, 1730 M Street, N.W., Washington, D.C. 20036. Regular discounts to members are available. Discounts for large orders will be quoted to other organizations on request. All orders must be prepaid.

ORDER FROM League of Women Voters of the U.S.
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The League of Women Voters of Minnesota

LAND USE IN MINNESOTA: WHERE WE ARE

MEMO TO: Local Leagues

FROM: Mary Watson, State Environmental Quality Chairman

RE: State Land Use Consensus

September 16, 1974

Here is some basic information to help you reach state consensus - LAND USE IN MINNESOTA: WHERE WE ARE. State consensus should follow national consensus. The information has followed the consensus questions; we have not included anything on taxation feeling it's basically a local matter.

We have included a brief summary of a proposed state land use bill and a section on copper-nickel mining; both will be subjects of controversy at the next legislative session. Also included is a questionnaire on attitudes toward land use which you may want to use. It is intended only as a device to give members some insight into their own feelings.

TABLE OF CONTENTS

Additional copies of LAND USE IN MINNESOTA: WHERE WE ARE are available from the state office at 35¢ each plus postage and handling.

1. ATTITUDES and REALITY: Man Vs. Nature?

"It is necessary that we begin with the necessities, beliefs and values of the people involved," says the anthropologist.*

"Soil is alive," says the conservationist.

"Land use is supposed to reflect the deeper human needs," says the lawyer.*

"Land tenure is a problem of ethics - a matter of rights and duties," says the conservationist.

Says Ian McHarg, in his book Design with Nature, "If the highest values in a culture insist that man must subdue the earth and that this is his moral duty, it is certain that he will in time acquire the powers to accomplish that injunction. . . He can now extirpate great realms of life." He goes on, "Surely the minimum requirement today for any attitude to man-nature is that it approximate reality. . . if such a view prevailed, not only would it affect the value system, but also the expressions accomplished by society."

What is the reality of man's relationship with nature, specifically with land?

A growing body of opinion holds that land is an irreplaceable resource; an entity in itself that we all depend upon for survival. To quote again Pat Kennedy, Hennepin County Soil Conservationist:

"Life. . . is sustained through its natural resources of soil, water, sunshine, air, woods, plants and wildlife. Nature, left to herself, swings the balance scales up and down. . . Rivers and streams cleanse themselves, soils assimilate decayed plants and purify organic wastes. . . the life support systems recycle themselves. . .

"(But) the processes are interrupted and stagnated when they are overloaded. . . open space is filled; runoff is increased, the process of water enrichment is speeded, hydrological systems are disrupted, streams and waterways may be reduced by half their length, ground water recharge is reduced, silt from construction sites fills in lakes and streams, runaway rivers cause floods and squander rainfall, and esthetic land forms are obliterated. . ."

In short, when nature's hospitality is abused, "she" exacts retribution.

"The primary challenge to urban planning today is the accommodation of diversity," says the anthropologist.*

She was speaking of people, but her statement is true of land as well. Some land is hospitable to man, some is not. "Mighty poor soil," said the Minnesota farmer when he first saw the Rocky Mountains. And he was right. Mountains do not readily accommodate the presence of man, nor do deserts or swamps or floodplains.

"Intrinsic suitability," McHarg calls it. "A complete study would involve identifying natural processes that performed work for man, those which offered protection or were hostile, those which were unique or especially precious, and those values which were vulnerable."

McHarg's scale of land "intrinsically suitable" for urban use is, in descending order: flat land, forests or woodlands, steep slopes, aquifers, aquifer recharge areas, floodplains, marshes, and surface water. He points out, however, that there is conflict within this scale. Some flat land is often prime agricultural land as well; since it performs work for man it should be considered intolerant of urbanization.

"Soil formation is the culmination of centuries of physical, chemical and biological changes. . the food gatherer sees soil as a living resource that replenishes tables and cupboards. . .," says the soil conservationist.

". . . There is only so much to go around and it must be balanced against the food requirements of burgeoning population increases. . . Man-made structures are better located on non-fertile soil while food producing soil should be left undisturbed. . . (Yet there is) no overwhelming expression to preserve the best lands for food production near large population centers. . . market value of land for urban development purposes outstrips its value for agricultural production. . . If it should be determined that such lands were

vital for production of food and fiber, a new approach would be required to insure their preservation. . ."

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* Phased Development for the Metro Area, a Humanistic Assessment, the Council of Metropolitan Area Leagues' report on its second annual Conference on Innovations in Government, 1974.

2. LAND USE IN MINNESOTA: The Data Base

Making rational decisions about the use of land depends on having a solid base of knowledge - a "data base," they call it. A step in that direction is the Minnesota Land Management Information System (MLMIS) study. Its goal was to "provide Minnesota public officials with a quantitative statewide perspective on land use" by "providing these decision makers with extensive information on present land use, plus selected economic and social data." The study is a joint endeavor of the University of Minnesota and various state agencies, including State Planning.

The problem was not so much lack of data on natural resources as lack of perspective. Each of the various government agencies accumulated data in its normal course of business. But each one had its own method of collecting, storing and coding the data, and the methods were not compatible. There was no transfer point, where data from all agencies could be retrieved and summarized for a comprehensive view of broad policy questions. The MLMIS study has laid the groundwork "for establishing structured data collection and storage techniques" in compatible computer systems. The study has also promoted long-term cooperation and coordination among researchers and public officials, so that the standardized information is of value to both groups and used by both.

One result of the MLMIS study is the State of Minnesota Land Use Map.* A kind of census of the land; the classes of land use on the map are compatible with most public records and can be correlated with records on land ownership, property values and inventories of natural resources. The 40-acre parcel, or government lot, is the standard measurement. The map was produced by "integrated computer and photographic methods" - a form of technical magic incomprehensible to the layman.

More understandable is the statement that "the pattern of land use in Minnesota reflects the results of the combined works of man and nature." Some of the features:

* The large amount of cultivated land in the west and south; the basis for the state's agricultural production - also locus of most land drainage.
* The heavily forested northeast, location of the state's forest products industries and major source of clean water runoff.
* An almost unbroken belt of extractive land extending from north of Grand Rapids to eastern St. Louis County - an extensive area of mineral production and, de facto, of on-land mine and processing waste disposal.
* The 300-thousand acre Twin Cities urban area, containing almost one-third of the urban land in the state.
* Much residential land use around many lakes in central Minnesota. Crow Wing County, the Brainerd lake district, ranks fourth among all counties in number of "urban" parcels of land.
* A ribbon of forested land breaking the prairies along the Minnesota River Valley.
* Large areas of marsh in Lake of the Woods, Koochiching, Roseau, Anoka and Aitkin Counties - much of which survived early attempts at farm drainage.
* A transition zone extending from the St. Croix Valley and the Metro Area to the Otter Tail-Becker County lake country, a multitude of farm clearings and residential wood lots, home of many of the state's long-distance commuters and part-time farmers.
* A two-thousand mile square region, mostly forested, much of it publicly owned, on the Anoka Sand Plain, just north of the Twin Cities.

* A mixture of pasture and open land in the farming country between the Twin Cities and the Iowa border, showing much land too rough, wet or stony to cultivate.

* A network of linear woodlands marking deep stream valleys in the southeast.

* Small, isolated farm clearings scattered through the northeastern forest - each with its history of pioneering, struggle and abandonment.

* The 150-mile strip of scenic coastland, the North Shore of Lake Superior.

* Parallel northeast-trending narrow strips of woodland in picturesque valleys cut into the high prairie in the southwest.

The MLMIS study, as it develops, will help form land use decisions, which will in turn help shape the map of the future. Some major questions to be resolved:

? How will lake shore and other amenity land be allocated between private and public demand?

? How much land is suitable for natural preservation? How much is actually owned by the public, or available to it?

? What are appropriate sites for regional industrial parks, commercial centers, airports, other public facilities?

? What is the potential impact of alternative locations for major power plants?

? What are the effects of different land uses on the quality of streams and lakes in different parts of the state? Where are the best locations for controlling water quality, for diverting and storing water for urban or irrigation use?

The table below shows in broad terms the amount of land in various kinds of use within Minnesota.

Land Use in Minnesota

Type	Acres*	Percent of Total
Cultivated	23,743,000	43.5
Forested	18,385,000	33.7
Open/Pasture	6,013,000	11.0
Water	3,373,000	6.0
Marsh	1,867,000	3.4
Urban-Residential	641,000	1.2
Urban-Mixed (Non-Residential)	550,000	1.1
Extractive	86,000	0.1
Transportation	28,000	0.0
Total	54,686,000	100.0

* Acreage is calculated by assuming the average parcel size is 40 acres.

* The map is available at Coffey Hall, University of Minnesota St. Paul Campus. It costs $3.50 if ordered by mail; $2.50 if picked up.

3. STATE LEGISLATION AFFECTING LAND USE

ENVIRONMENTAL POLICY ACT

This Act declares a state policy that will 1) encourage harmony between man and his environment; 2) promote efforts to prevent or eliminate damage to the environment and

bioshpere; and 3) foster understanding of the ecological system and natural resources important to the state and to the nation.

The Act gives the Environmental Quality Council (EQC) the authority to carry out a program regarding Environmental Impact Statements, including the authority to prescribe rules and regulations. It requires that an Environmental Impact Statement be prepared for and major governmental or private action of more than local significance where there is the potential for significant environmental effects.

Provision for citizen action was written into the bill: "An impact statement shall be required by the EQC where a petition is filed by 500 persons and there is material evidence of the need for an environmental review." However, the EQC interprets this sentence to mean that such a petition requires only that it look at the situation, not that it must require an impact statement.

A Citizens Advisory Council to the EQC was also created, composed of one representative from each congressional district and three members-at-large; all are appointed by the governor. Its function is to gather information, advise and counsel the EQC, and make recommendations regarding state programs and policy.

POWER PLANT SITING ACT

This Act declares that it is the policy of the state to site large electric power facilities in an orderly manner compatible with environmental preservation and the efficient use of resources. It authorizes the EQC to approve sites for power plants and the routes and corridors for transmission lines.

The Act directs EQC to 1) select sites that minimize adverse human and environmental impact while insuring continuing electric power system reliability and integrity to meet the needs for electric energy; and 2) set up criteria for evaluating specific sites.

The Act requires a broad spectrum of citizen participation as a principle of operation. Public hearings are required, both for considering criteria and for designating sites. All meetings and files must be open to the public. The EQC must appoint advisory committees, composed of a majority of public members but including representatives from the utilities, municipal and regional governments. The Act encourages the formation of an advisory committee for each site application, since it requires a representative from the region, county or municipal government in which plants and corridors are proposed to be located.

CRITICAL AREAS ACT

This Act, like many others, is confusing to the ordinary citizen. It calls for interaction among several agencies, with the responsibilities of each not quite clear to the layman. 1) The Act assigns the State Planning Agency and the Department of Natural Resources (DNR) the responsibility of identifying areas which, because of unique characteristics, could be irreparably damaged by uncontrolled development. 2) It requires the EQC to prepare criteria for the selection and treatment of areas of critical concern and to periodically study and assess the resources and development of the state. EQC is supposed to recommend to the governor those areas to be designated as critical areas. 3) Then the governor makes the formal designation of the area. 4) Within three years, the Legislature or the Regional Development Commission must approve the designation. 5) State Planning is required to cooperate with local governments in development of plans and regulations for wise use of critical areas. 6) The role of the citizen in this process consists of making recommendations to the EQC of possible "critical areas."

WILD AND SCENIC RIVERS ACT

This Act declares a state policy to preserve and protect rivers which have outstanding scenic, recreational, natural, historical, scientific and similar values. Rivers in the system would be classified as wild, scenic, or recreational, depending upon their water quality and adjacent land development.

The DNR commissioner is to administer the Act and designate rivers to be included within the system, which the Legislature may add to or modify. The commissioner must adopt a

management plan for each river, or component thereof, and may acquire the title, scenic easements, or other interests in land by purchase, ..., or other lawful means; and promulgate regulations relating to the uses in and of the water and the land areas designated in the plan.

Local governments would have to adopt wild and scenic river ordinances if a river included in the system was within a local government's boundaries.

LAKESHORE ZONING IN MUNICIPALITIES

This bill extends the shoreland management act to within the boundaries of incorporated areas. Thus, the local units of government will be required to adopt ordinances, promulgated by DNR, governing land within 1,000 feet of lakes or more than 25 acres and within 300 feet of rivers.

DEFINITION OF PUBLIC WATERS

The Act clarifies the definition of public waters as "those waters which are any waters, surface, or underground which serve a beneficial public purpose." Beneficial public purpose is specifically defined to mean (1) water supply, (2) groundwater recharge areas, (3) retention of water to reduce downstream flooding and erosion, (4) entrapment and retention of nutrient and other materials which may impair water quality, (5) recreational activities including swimming and hunting, (6) public navigation, (7) wildlife habitat including fish spawning, water fowl nesting, and areas for the rearing, feeding and protection of wildlife.

The state must control and supervise any activity which changes or will change the course, current or cross section of public waters. Where public waters or the beds of public waters are unlawfully disturbed, the DNR commissioner may order restoration to the condition existing before the unlawful activities took place.

MINELAND RECLAMATION ACT

This Act strengthens the authority of DNR to establish standards and procedures for mined land reclamation, to revoke mining permits if harm to the environment develops, to develop a procedure for identifying areas where reclamation is technologically not possible and to exclude mining from those areas.

FLOOD PLAIN MANAGEMENT

This Act requires local units of government to formulate an acceptable flood plain management plan or the state will step in to do it for them.

COUNTY PLANNING ACT

This bill clarifies the planning and zoning authority of the counties and increases the authority of the counties to deal with certain problems, as well as to provide uniformity throughout the state. It authorizes increased county control over surface water zoning, wetlands preservation, open space, parks, sewage disposal, advertising signs, and erosion and sedimentation control. It has very liberal provisions for allowing variances.

METROPOLITAN OPEN SPACE PROTECTION ACT

This bill gives DNR authority to promulgate standards and criteria and model ordinances for the Metropolitan Area to protect wetlands, groundwater recharge areas, erodible slopes, forests and woodlands, nonbuildable soils and bedrock, surface water zoning, stormwater runoff channels, areas of unique or endangered species, prime agricultural lands, gravel mining and historically significant areas. Municipalities may adopt these ordinances.

4. STATE AGENCIES INVOLVED IN LAND USE DECISIONS

As previous LWV studies have shown, there is a multiplicity of state agencies, many of whose roles intertwine and overlap. Many of them are involved in land use, to a greater or lesser

degree. Those most actively involved are listed first.

STATE PLANNING AGENCY

This is a very large agency, and it would be hard to over-rate its importance, since its activities affect so many others. It provides advice and assistance to the governor and the Legislature on many issues. It engages in functional planning efforts (for health, transportation, drug abuse, etc.) where the existing organization of state government precludes assigning the responsibility to any other state agency.

It assists the governor in coordinating activities of the various state agencies; provides planning and technical assistance to local and regional governments, and when assigned by the Legislature, administers their grant-in-aid programs; it prepares recommendations for the orderly growth of the state for consideration by the governor and the Legislature. State Planning is structured as follows:

Department of Environmental Planning - prepares the criteria for state environmental impact statements; it is developing the land use inventory (data base); it is directing the study on the feasibility of copper-nickel mining.

Office of Local and Urban Affairs - formulated the Economic Development Regions and provides them with technical assistance.

Human Resources Planning Department - administers the Human Services Act. This controversial Act established Human Services Boards on a regional basis to coordinate county and multicounty health, corrections and welfare departments. A pilot project is underway. The long-term goal was that the regional boards would eventually replace local and county boards providing human services and would control local, state and federal funds allotted for that purpose. It also administers a HEW grant for child development.

Health Planning Department - is developing regional Health Planning Councils, studying physician distribution in the state, studying the feasibility of state catastrophic health insurance. It also reviews price increases in health care facilities.

Federal-State Relations Department - monitors federal legislation, analyzing its potential impact on Minnesota and provides reports to the governor and Legislature on ways to use federal grants-in-aid more effectively; it publishes a biweekly bulletin on federal legislation and its impact on Minnesota.

Office of Developmental Planning - provides staffing for the Commission on Minnesota's Future (see below).

DEPARTMENT OF NATURAL RESOURCES (DNR)

This is another large department with many responsibilities. Its task is conserving and promoting the wise use and management of the state's natural resources - forests, game and fish, lands, minerals, state parks and waters. Its divisions:

Division of Enforcement and Field Service - enforces all natural resource laws.

Division of Game and Fish - manages and protects the state's wildlife resources.

Division of Lands and Forestry - is responsible for fire protection and prevention on 17.65 million acres of public and private land. It administers timber sales on state land. It is responsible for the management, sale or lease of trust fund lands outside of state forests and for the administration of 1.6 million acres of agricultural, nonagricultural and lakeshore lands.

Division of Parks and Recreation - administers the State Park System.

Division of Waters, Soils and Minerals - has general administrative jurisdiction over the public waters of the state, both surface and underground; is responsible for protecting public waters from encroachment; it issues permits for the appropriation of water. It administers the shoreland and flood plain management programs. It is responsible for over 5 million acres of trust fund minerals the state owns and acts as agency for the counties and local taxing districts in administering the millions of acres of mineral rights acquired through tax forfeiture. Through lease negotiations,

it regulates the exploration and extraction of state-owned mineral areas and the release of barren areas for other types of development. It regulates environmental impact of mining operations through the Mineland Reclamation Act.

DEPARTMENT OF HIGHWAYS

This department has great impact on the use of land. It provides the basic data and research to plan a highway system, prepares plans for construction of roads and bridges, landscaping, etc.; acquires property for highways, lets contracts, supervises construction and pays contractors. It provides relocation assistance to persons displaced by highway acquisition. It maintains and repairs all state roads. It administers state and federal highway aid to counties and municipalities, and provides engineering and technical assistance to the extent available.

POLLUTION CONTROL AGENCY (PCA)

This agency deals with virtually all of the state's pollution problems, directly or indirectly. It administers and enforces laws relating to water pollution, air pollution, solid waste disposal and pollution-related land use planning. It refers problems to local governments first, sometimes furnishing technical assistance. If a problem can't be solved locally, the PCA staff evaluates it, suggests alternatives, and presents it to the PCA Board for resolution.

Division of Water Quality - is responsible for management of the quality of both surface and underground water in the state.

Division of Air Quality - is responsible for adopting standards of air quality and regulations to achieve the standards, to protect the "health and welfare."

Division of Solid Waste - works to improve methods of disposal, is phasing out nonconforming landfills. It administers laws affecting feed lots and abandoned autos.

ENVIRONMENTAL QUALITY COUNCIL (EQC)

EQC provides for interdepartmental resolution of significant environmental problems. Because of the overlapping responsibilities of the agencies involved, EQC is composed of the following department heads: PCA, DNR, State Planning, Highways, Health and Agriculture. It also includes four citizens and a representative from the governor's office. It is charged with certain specific responsibilities: power plant siting, selection of critical areas, and the Environmental Impact Statement program. It also reviews major state environmental issues.

COMMISSION ON MINNESOTA'S FUTURE

This agency was created by the last Legislature and it has the potential for a great deal of influence on land use. It will prepare a proposed strategy for state growth and development for the governor and the Legislature. It is required to report to the governor every other year, but is encouraged to submit recommendations whenever it considers it appropriate to do so. It will examine state departments, universities and colleges and assess their possible impact on state growth.

SOIL AND WATER CONSERVATION COMMISSION

This agency became part of the DNR in 1971, but it has its own responsibilities. It promotes the organization of county soil and water conservation districts throughout the state, administers their funds and provides technical assistance.

Other agencies with some impact on the use of land are:

Iron Range Resources and Rehabilitation Commission - promotes the mining industry, agriculture and forest development; provides vocational training. It has spent money for projects like wood processing, food processing, peat development, water and mineral surveys, copper-nickel surveys, topographic mapping, industrial development surveys.

Department of Agriculture - promotes agricultural and food industries, investigates marketing conditions, helps farmers, producers and consumers form co-ops, enforces laws relating to the manufacture and distribution of food, animal feed, seeds, fertilizers, economic poisons, etc.

Minnesota Land Exchange Commission - is composed of the governor, state auditor and attorney general. It approves the exchange of federal and private lands for state owned lands.

Department of Economic Development - was established to promote economic growth in the state, directly or with private interests and other levels of government. It has emphasized economic research, expanding business and industry, and promoting tourism within the state.

Department of Health - Its major functions involve health care, hospitals, health records and allied subjects, but it is also responsible for testing water quality and supply and checking radiation levels.

5. HOW REGIONAL, COUNTY AND LOCAL GOVERNMENTS FIT INTO THE PICTURE

REGIONALISM

The Minnesota Legislature passed the Regional Development Act in 1969 for two purposes; 1) to provide effective coordination in existing planning authority, and 2) to meet requirements for federally funded programs, many of which required funding through regional agencies. (The Metropolitan Council was established in 1967 under different legislation, but for a similar purpose.*)

The Act includes provisions for:

Administration

a) The governor designates Development Regions after their boundaries are delineated by the Office of Local and Urban Affairs of the State Planning Agency. Then a Regional Development Commission is formed by petition of local units of government, or by the governor if there is an "exceptional need."
b) The governor appoints the first chairman of a Regional Development Commission; functioning commissions elect later chairmen from their own membership. Membership of the commissions consists of representatives from county, municipal and school boards within the region. All of the commissions now have chairmen, although Regionals 7E and 7W do not yet have executive directors.

Powers

a) Each Regional Development Commission must formulate a development plan to submit to the State Planning Agency.
b) Local planning authority is not affected. However, local plans with inter-area impact must be reviewed by the commission, which may not impose a solution to a local conflict.
c) The commission comments on whether local applications for federal and state funds conform to regional plans and priorities. Adverse comments could reduce the chances of a grant being made.
d) Commissions conduct research and studies but have no authority to implement them.
e) Commissions may suspend the implementation of development plans formulated by independent boards or agencies that are inconsistent with the regional plan.

Financing

a) Commissions may levy a property tax of up to ½ mill within the region.
b) Their main source of funds is planning grants from state and federal funds.

Regions 1, 2, 3, 4 and 9 have submitted development plans to the State Planning Agency; other regions are still working on them. These plans include specific sections on land use.

(Local Leagues should examine the development plans for their regions.**)

COUNTY PLANNING

Until the last legislative session, the counties tended to look upon their role as

an administrative arm of state government. County planning was mainly reactive--building county roads at the request of local government, for example. But with the passage of the County Planning Act, counties are much more active in planning. State law now requires counties to administer such laws as the Shorelands Management Act, and to supervise solid waste disposal operations.

However, county planning is pre-empted by state and regional planning.

LOCAL PLANNING

Local governments have long had the power to plan and zone within their corporate limits, but they too must work within state and regional framework.

(Local Leagues who have not done so recently should review the planning process in their own communities.)

As you can see, land planning overlaps at all levels of government.

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* The Council of Metropolitan Area Leagues recently mailed out copies of a report on its second annual Conference on Innovations in Government, called Phased Development for the Metro Area, A Humanistic Assessment. Each LWV member within the Metro Area received a copy, as did each League outstate. You will find it useful for the insights it offers on regional development planning. Additional copies for outstate members will be available at the LWVMN office.

** Maps of the Minnesota Development Regions and lists of the Regional Development Commission chairmen and staff directors are included with this material.

REFERENCES

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2. Phased Development for the Metro Area - 2nd Conference on Innovations in Government. Council of Metropolitan Area Leagues.
3. Let's Get Down to Earth About Land Use, Roseville, MN League of Women Voters, available for 25¢.
4. A State Land and Water Use Policy for Minnesota. Soil Conservation Society of America - Minnesota Chapter.
5. Metropolitan Development Framework, February 14, 1974. Metro Council.
6. Legal Study of Control of Urban Sprawl in Minneapolis-St. Paul Metropolitan Region, January 1974. Metro Council.
7. Where Do We Grow From Here? Christian Science Monitor Reprint.
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9. Getting a National Perspective on Land Use Issues. Committee Guide, LWVUS.
10. Land Use at the State Level the Growing Edge. Current Focus, LWVUS.
11. Regional Act 1971, LWVMN Informational Report, 1971.
12. The Environment of the Poor! Who Gives A Damn? Conservation Foundation Letter, July 1973.
13. Pressures Mount to Limit Uses of Private Land. Conservation Foundation Newsletter, June 1973.

These publications are available from the agencies publishing these reports for a nominal fee or free.

6. A PROPOSED STATE LAND USE BILL

A draft of a Comprehensive State Land Use Bill was put together during the last session of the Legislature but not formally introduced. At two interim hearings last summer, most speakers addressed the concept of the bill rather than its specifics, and it is expected that there will be substantial revisions. Generally, environmental groups favor such a bill; some other maintain that present laws are sufficient. Another point of contention is whether or not an additional state agency, called for in the bill, is either necessary or desirable.

Last February the LWVMN sent all state Leagues a rather detailed summary of the draft, which should be in your files. Here are some of the highlights:

The bill would establish a Council of Land Resources within the DNR but separate and autonomous from its other divisions. The governor would appoint nine members to the Council and a Director of Land Resources who would be responsible to the Council. The Council would:

* Administer all statutes relating to floodplains, shorelands, wild, scenic and recreational rivers, power plant siting and critical areas.

* Set up a State Land Information Service to compile and distribute land use data to appropriate units of government. It would have authority to acquire any data subject to public disclosure; it would specify particular data that local or regional governments would be required to use in the planning process.

* Promulgate minimum statewide standards and criteria for the protection, use and development or subdivision of the land and water of the state which would:

  a) protect groundwater recharge areas
  b) minimize erosion of slopes
  c) eliminate unnecessary reduction of forests
  d) determine soil suitability for development
  e) protect areas containing unique or endangered species of plants and animals
  f) prevent nonagricultural use of prime agricultural lands
  g) minimize adverse environmental effects of nonmetallic mining
  h) preserve areas of cultural, esthetic or historic significance
  i) preserve wetlands essential for flood control, groundwater recharge, nutrient removal or wildlife habitat
  j) protect wetlands which are a potential water resource base or natural environmental area
  k) insure that subdivision regulations protect natural watercourses, waterbodies, forests and woodlands.

Counties and municipalities containing areas described above would be required to adopt ordinances according to statewide standards. The Council would help the local units develop and enforce the ordinances, and would adapt its own model ordinance to the situation if the local ordinances did not conform.

* Draft standards and criteria to identify developments of regional and statewide importance which have environmental, social or economic effects beyond local boundaries. The Council would consider the size, location and timing of such development in relation to particular areas of the state, and such effects as:

  a) Substantial new volumes of traffic
  b) Substantial air, water or noise pollution
  c) Additional requirements for public services by other local governments
  d) Substantial stimulation of additional development
  e) Depredation of significant scenic, esthetic, recreational, historical or cultural resources.

  The appropriate Regional Development Commission would review the development and could hold a public hearing or ask for an environmental impact statement before commenting. Any final decision of a municipality or county regarding a regional or statewide development could be appealed to the Land Appeals Board (see next page).

* With the State Planning Agency, prepare a state land capability plan stating the land's capability for various uses. The Council would hold public hearings in each Development Region before adopting a plan. After a plan is adopted, county and municipal plans would have to be consistent with it. Regional Development Commissions would review and comment to assure compliance. Any person could petition the Council to review a local comprehensive plan alleged to be inconsistent with the standards. The Council could decide or send the petition to the Land Appeals Board for a hearing.

The bill provides that Regional Development Councils, including the Metro Council, would:

a) act as the planning body for local governments with no planning commission
b) review and comment on land use ordinances and comprehensive land use plans
c) review and comment on proposed statewide standards and criteria
d) review and comment on variance applications by local governments from land use ordinances
e) provide technical assistance to the Council, municipalities and counties for ordinances and plans required by this bill.

The bill would set up an Intergovernmental Advisory Committee with members from municipal, county and regional governments to advise the Council regarding implementation of the bill. the Committee would:

a) study land use management and regulations
b) hold meetings throughout the state on land use policies
c) make recommendations to the governor, Legislature and affected agencies on coordinated land use policies, planning and management
d) assist the Council in developing and revising standards and criteria
e) meet with the Council at least four times a year
f) advise the governor, Legislature, Council and public on the effects of this bill on individual land owners and the tax revenues of local governments.

A Land Appeals Board would be established to decide appeals from land use decisions of local and regional governments involving ordinances required by statewide standards, developments of regional or state importance, or anything referred by the Council. The Board would have the power to reverse or modify a local decision.

7. THE COPPER NICKEL CONTROVERSY

Battle lines are drawn between environmentalists, who see copper-nickel mining as a threat, and the mining companies, who see it as a promise. Residents of northern Minnesota, where the mining would occur, are divided on the issue. Many see it as an economic boon; others, particularly those involved in the tourist trade, see it as a potential disaster. The state of Minnesota will have to decide what to do about it. Since the decisions can't possibly please both sides, and a compromise would probably satisfy neither, it's a touchy question.

The Situation: In 1948 potential commercial deposits of copper, nickel and related minerals were discovered in an area of northern Minnesota known as the Duluth Gabbro formation. (Geologists say the gabbro originated as molten rock from the earth's core that solidified when it hit cold rock from an earlier era, forming copper and nickel sulfide in the process. The minerals are found along the line where the gabbro meets other geological formations.) The line is about 35 miles long and a mile wide, extending in an arc from Duluth toward the mortheastern point of Minnesota, some of it within the Boundary Waters Canoe Area (BWCA). Another formation, the Greenstone, lies mainly to the north, but it is not as promising.

The Minnesota Geological Survey estimates that there are at least 6.5 billion tons of crude ore, worth about $55 billion. A state interagency task force says that is a "gross underestimate." The U. S. Bureau of Mines says the area is the nation's largest nickel sulfide resource, which could supply the world's needs for nickel for 20 years. The copper could supply the world for five years or U. S. needs for 20. It is low grade ore, with mineral content of 1% or less, but present technology makes it feasible to extract the metals. About 95% of the copper and 50% of the nickel could be recovered from the ore.

The U. S. uses 53% of its copper supply for electrical equipment; other uses include plumbing equipment, coins, ammunition, industrial bearings and bushings and jewelry. All but 15% of the nickel used in the U. S. is combined with other metals to improve their quality, stainless steel being the notable exception.

In the 1950s exploration occurred near the South Kawishiwi River southeast of Ely and Hoyt Lake. It stopped temporarily when the International Nickel Company (INCO) found large amounts of higher grade ore near Thompson, Manitoba, but it resumed in 1966. In 1967-68 INCO developed a preliminary mine on Birch Lake, south of Ely. Other mining companies explored north of Duluth between Boulder Lake and the South Kawishiwi. Since 1966, mining leases have been signed for 200,000 acres of federal and state land outside the BWCA. Besides INCO, companies currently holding leases are Duval, Hanna, American Metals Climax Co. (AMAX), U. S. Steel and Exxon, which holds the rights to more total acreage than any other firm.

One controversy began in December 1969 when George St. Clair, a private prospector who owned mineral rights within the BWCA, stated that he intended to drill. The Izaak Walton League filed a complaint in Federal District Court, calling for a declaratory judgment and injunctive relief against St. Clair and state and federal officials for allowing exploration. In January 1970, the U. S. Forest Service confiscated St. Clair's equipment on the grounds that his encampment was in one place longer than the 14 days its regulations permit. On January 5, the late Judge Philip Neville issued a permanent injunction halting exploration and extraction of minerals within the BWCA. He said:

". . . If the 1964 Wilderness Act means anything, the BWCA was established by Congress to secure for future generations the beauty, pristine quality and primitiveness of one of the few remaining wilderness areas of this country. Any use of the surface for the exploration or extraction of minerals becomes an unreasonable use because the surface is no longer wilderness and is irreversibly and irretrievably destroyed for generations to come. Mineral development thus by its very definition cannot take place in a wilderness area, else it is no longer a wilderness area."

However, Judge Neville's ruling was appealed, and in May 1974, a three-judge panel of the 8th Circuit Court of Appeals reversed his decision. The Appeal Court's decision may be appealed to the U. S. Supreme Court. Meanwhile, the Appeals Court charged the U. S. Forest Service with the responsibility of determining whether an exploration permit should be granted. An environmental impact statement would be required.

The 1964 Wilderness Act does allow prospecting for minerals; however, it requires that "such activity is carried on in a manner compatible with the preservation of the wilderness environment."

A current controversy involves an area just outside the BWCA. In January 1974, the U. S. Forest Service gave INCO permission to remove a 10,000 ton sample of ore from the Superior National Forest; now INCO seeks permits for an open pit mine. Eventually the pit would be about a mile and a half long and up to three quarters of a mile wide and 1,000 feet deep. It is located about 12 miles southeast of Ely, about a mile from the South Kawishiwi River and the BWCA border. Concentration of the extracted ore (called beneficiation) would take place in the same general area. To store the wastes from this phase of processing, INCO would construct a tailings basin surrounded by dikes to prevent or reduce runoff into the Kawishiwi and the BWCA watershed.

Several permits, from both state and federal agencies, are necessary before the project can get underway. The U. S. Forest Service is preparing an environmental impact statement, which could take up to two years to complete. The 1973 Legislature appropriated $100,000 to the State Planning Agency; this report may not be completed in time for the Legislature to study the socio-economic and environmental effects of copper-nickel mining.

Points at Issue: Opponents of copper-nickel mining cite environmental reasons against every step in the mining process, especially so close to the BWCA:

1) Open-pit mining means removing the over-burden, drilling and blasting the rock, loading it onto trucks and hauling it to the crusher. INCO's open-pit mine would cover 530 acres.

2) The next step, grinding and concentration, calls for a plant covering 100 acres. The process requires a great deal of water. Even if it is recycled, each ton of crude ore requires 100 gallons of "new" water. Further, each ton of crude ore produces 1900 pounds of tailings. INCO's tailings basin would cover 2,900 acres. Tailings may contain water soluble materials. Because very low levels of copper are extremely toxic to fish and other aquatic life, water pollution from runoff and tailings deposits is a major concern, especially so since the Kawishiwi flows through the BWCA. The possibility of polluting Canadian waterways as well makes it an international issue.

3) Metals must then be extracted from the concentrate. The most economical method is pyro-metallurgical, which requires a smelter. This process gives off sulfur dioxide, which is harmful to vegetation and to people. It combines with water to form sulfuric acid. The sulfur oxides can be processed back into plain sulfur and sold, but it costs more to recover the sulfur than it sells for, and that process takes considerable amounts of water. INCO's smelting operations near Sudbury, Ontario, have left the surrounding forests so barren they have been described as "moonscapes."

   While Governor Wendell Anderson has indicated that he will not allow a smelter to be built in the Ely-Superior National Forest area, environmentalists are still concerned: 1) he will not be governor forever; and 2) if the six firms now holding leases begin mining operations, the pressure for a smelter(s) would be intense.

4) Environmentalists point out that copper-nickel mining would bring a boom only as long as the ore holds out. Most estimates are for 20 years. When the ore runs out, what then?

Counterpoints: If copper-nickel mining is so harmful to the environment, why is Minnesota considering it at all? The answer is economics, and proponents of copper-nickel mining cite economic benefits and say that environmental risks can be minimized.

1. A copper-nickel industry in Minnesota would mean less reliance on foreign sources. The oil situation has illustrated how readily foreign sources could be cut off. At present, the one nickel mine in the U. S. produces only 7% of the needs of the nation. Further, with nickel at $1.85 a pound, the increased production would help reduce the nation's balance-of-payments deficit. The present gap between U. S. copper production and demand is being filled, according to INCO's William Mounce, "by extremely unstable sources in South America, Central Asia, and Southwestern Pacific."

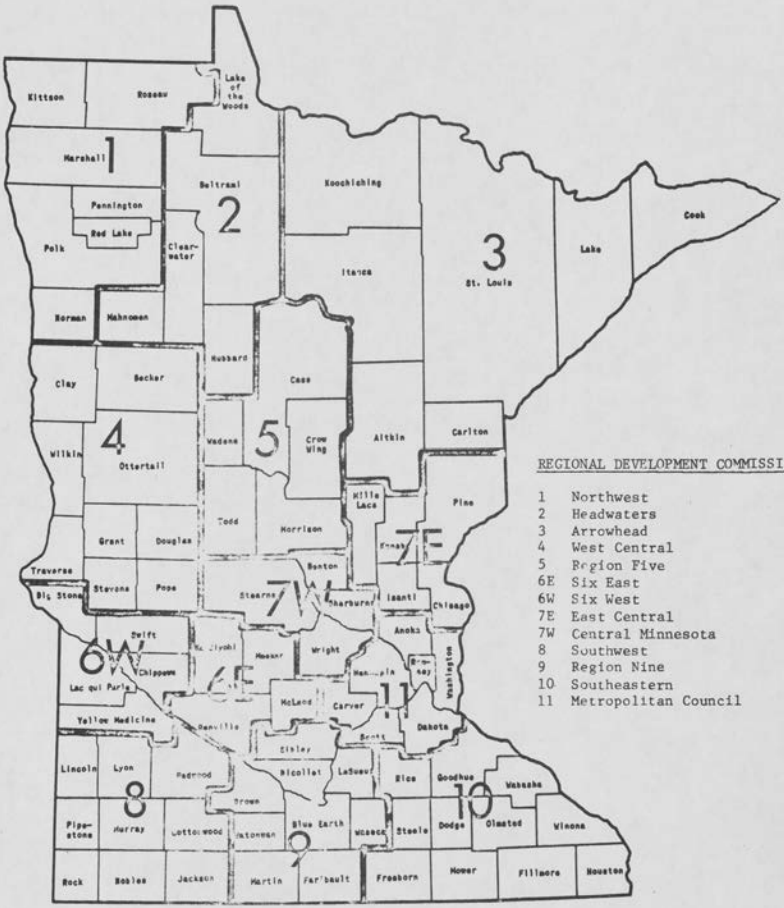
2. The promise of plentiful jobs in an economically depressed area is a powerful incentive. Unemployment in the Ely area (population 4,904) is estimated at between 7% and 12%, depending on the time of the year. INCO's officials have estimated that about 800 jobs would be created directly by mining and processing operations (many of the 800 jobs would be tied to a smelter), with an undetermined number of support and service jobs generated indirectly.

3. Proponents say that new refining processes would answer pollution concerns; that the damage at Sudbury was caused by roasting methods now obsolete. They mention Duluth as a likely site, and point out that without a smelter, the ore would move out of the state and take with it jobs, money and the supporting businesses.

Proposals: The question is sure to be debated in the next legislative session. An environmental task force has been formed to stem the enthusiasm for mining until the environmental costs are known to the public. Paul Toren, president of the Izaak Walton League, states, "We want to make sure that the cost to that area is worth the benefits." Under the League's present positions on air and water, we can support measures to reduce the air and water pollution accompanying mining; however, the task force proposals go beyond our present positions.

In order to guide our action, we would like your comment on the proposals given on the enclosed sheet. Please return to the state office with State Land Use Consensus.

Minnesota Development Regions



REGIONAL DEVELOPMENT COMMISSION

1 Northwest
2 Headwaters
3 Arrowhead
4 West Central
5 Region Five
6E Six East
6W Six West
7E East Central
7W Central Minnesota
8 Southwest
9 Region Nine
10 Southeastern
11 Metropolitan Council

State Planning Agency
Office of Local & Urban Affairs
May 22, 1974

JULY 1974

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Six East	Ernie Bullert Route 2 Glencoe, Minnesota 55336 612/864-3096	Eugene Hippe City Auditorium 311 West 6th Street Willmar, Minnesota 56201 612/235-8504
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7E (East Central)	Robert H. Anderson 600 McLean Mora, Minnesota 55051 612/679-3863	(None)
7W (Central Minnesota)	Ralph Thompson Belgrade Minnesota 56312 612/346-2637	(None)
8 (Southwest)	F. A. "Jim" Miller 774 DesMoines Drive Windom, Minnesota 56101 507/831-1951	Mark Atchison 2711 Broadway Slayton, Minnesota 56172 507/836-8549

REGION	CHAIRMAN	EXECUTIVE DIRECTOR
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League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102 - September 1974

WHAT'S YOUR ATTITUDE TOWARD THE LAND?

This questionnaire was adapted by one developed by the Center for the Study of Local Government at St. John's University, Collegeville. It is intended to stimulate interest and spark discussion by encouraging members to explore their own attitudes. This is not part of the consensus and we do not want to know your answers; use it any way you wish.

Answers range on a scale from 1-5; the sum of your answers indicates your attitude with low scores showing a liberal attitude and high scores a conservative attitude.

Agree Disagree

1 2 3 4 5

1. Private ownership of land is not a basic human need.
2. Unrestrained growth leads to a deteriorated quality of life.
3. No individual should profit from changes in land value that have not been a result of their own efforts.
4. Land use policy should be determined on the basis of service to the largest number of people.
5. Preserving good farm land for farming purposes is very important.
6. Each community (county, region) should phase growth at a pace that its citizens are willing to support with sewers, roads, schools and other services.
7. People who use the land should be willing to bear the cost of returning it to its natural state.
8. Conservation of energy (heating fuel, gasoline) should be considered in planning new developments.
9. Government compensation to landowners affected by new regulations should be paid on the value of the land at its present use, not on its potential value for development.
10. Government policies should encourage an economic mix and a wide range of housing choices within each community.

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102 - September 1974

COPPER-NICKEL MINING PROPOSALS

Please return to the state office with your State Land Use Consensus.

LWV of _____

Date _____

1. Ask the Legislature to return the amended Shipstead-Newton-Nolan Act to its original form, which forbade the artificial alteration of the natural water levels and adjacent shoreland areas in the Duluth-Gabbro area. The law was amended in 1967 to authorize water use for copper-nickel operations. Mining operations would substantially lower the water level in the Kawishiwi River. This action would result in a ban on mining in the area.

   Approve Disapprove

   Comment:

2. Have the Kawishiwi River declared a Wild and Scenic River under state law. Copper-nickel mining would not be a desired use for a river covered by the Wild and Scenic Rivers Act, and thus it would ban mining in the area.

   Approve Disapprove

   Comment:

3. Ask the Legislature for an open-end moratorium. The idea behind this proposal is that copper-nickel mining could be held off until the taconite was exhausted and then the new mining operation could provide the economic base for the area. A moratorium would allow time to increase recycling of the metals and time for reassessment of the need. Finally, it would allow for the development of new technology which would minimize environmental damage.

   Approve Disapprove

   Comment:

4. Only support environmental controls under our present air and water positions.

   Approve Disapprove

   Comment:

The League of Women Voters Education Fund

- *why is everybody talking about land use? and what do they mean?*
- *who will make land use decisions*
  --the federal government?
  --state government?
  --local government?
- *how should the citizens' role be built into the process?*
- *how do land use decisions affect*
  --the land and the environment?
  --the rich and the poor?
  --landowners and tenants?
  --the young and the not so young?
  --minorities and majorities?
  --the individual....and the community?
  --the private interest and the public interest?

AND

can we keep public and private rights in balance?

LAND USE

Contents

can we keep public and private rights in balance?

LAND USE

1730 M STREET, N.W., WASHINGTON, D.C. 20036 • TEL. (202) 296-1770

news release

The League of Women Voters of the United States

This is going on DPM

(Following is a sample press release on the land use position which you may wish to adapt for use in your media. You may also wish to insert a couple of paragraphs relating to the national position to your League's action plans)

The League of Women Voters of the U.S. announced today a new land use position based on the results of a two year land use study recently completed by local Leagues.

Mrs. Ruth C. Clusen, President of the League, in making the announcement said:

"The results of the comprehensive study undertaken by local Leagues indicate that members recognizing that land is a finite resource, not just a commodity, believe that land ownership, whether public or private, implies responsibilities of stewardship.

"We also believe that each level of government must bear appropriate responsibility for planning and managing land resources, and therefore it is essential that at a minimum, an appropriate level of government determine, regulate and guide critical activities and the use of critical land areas. Concurrently, in order to guarantee responsive and responsible government in such decisions, members feel it is important that citizen participation be built into planning and management of land resources at every step."

The six major points in the new land use position are:

-encouraging formulation of land resource goals
-developing policies and standards for conserving land resources
-fostering coordinated planning and management of land resources by all government levels
-fostering cooperation among agencies and various levels of government in establishing mechanisms that ensure consideration of all public and private rights and interests affected by land use decisions

OVER

-minimizing conflict of interest on the part of those who make decisions about land resources
-ensuring more effective citizen participation through such measures as adequate funding for citizen information and review.

Mrs. Clusen went on to say: "We believe that successful land use planning and management will only be accomplished through a united effort in which the federal government takes a leadership role and all levels of government work with concerned citizens in solving land use problems."

She added that "local Leagues are now ready to throw their full support not only to gaining passage of federal legislation this year in land use planning, but also to achieving implementation of state and local programs which adhere to responsive land use planning and management goals."

# # #

March 1975

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102 - November 1974

Testimony before the Public Land Subcommittee
of the Senate Natural Resources and Agriculture Committee
by Mary Watson, Environmental Quality Chairman
League of Women Voters of Minnesota
November 13, 1974
State Capitol, St. Paul, Minnesota

The League of Women Voters is currently studying land use and we have no consensus; we do want to raise some questions concerning this bill.

We question the omission of any stated policy or goal on future development. The review of present statutes to bring to light ambiguities and conflicting policies is a necessary step, but since the bill stops at that stage, who will propose the overall plan? It would seem that strong direction to guide future growth and development is a necessary component of any land use bill and lacking that, it does not accomplish its purpose.

We do feel Minnesota should have a land use plan and we commend Senator Purfeerst for this first step.

State Land Use Concsensus Questions

I. Should state government reassume authority to engage in state land use planning and control
   1. for overall land use within the state
   2. for selected land areas and actities of statewide concern (more than local concern)
   3. for uncontrolled areas where local governments fail to regulate land use of local concern
   4. other

II. If the state government were to exercise planning and control functions for areas and activities of more than local concern, specify, which critical areas and critical activities your League would regard as requiring such consideration.
   A. Critical areas
   B. Critical activities
   C. Other

III. Which critical land areas and activities listed above should be subject to the following methods of control? Mark your list of critical land areas and activities in question II with the appropriate number listed below.
   1. This land use decision should be subject to direct state control.
   2. This land use decision should be left to local decision-making according to state-established standards and subject to state review.
   3. Other

IV. In a state organizational framework to carry out land protection, would your League support
   1. tieing it closely to the state's total integrated overall(development)planning
   2. coordinating it with plans and policies of local and regional agencies
   3. tailoring it to enhance maximum local decision-making
   4. requiring local governments to exercise at least a minimum level of planning and control over land use
   5. requiring impact statements on major public and private developments
   6. other

V. Should the state government help localities develop and exercise local land use management functions? If the state government were to give such help to local governments would your League support
   1. increased state financial aid for research
   2. increased state technical assistance
   3. increased state data information
   4. state compensation to localities that suffer revenue losses from state override of local land uses
   5. state authorizing localities to exercise innovative land use planning and regulatory techniques such as land banking, planned unit developments, transfer of development rights, timed development ordinances, etc.

VI. Should there be an appeals board with power to arbitrate conflicts between
   1. governmental bodies in land use decisions
   2. citizens and governmental bodies in land use decisions
   3. other

VII. Should the state government encourage substate regional bodies for land use planning and regulation on matters of more than local concern?
   1. Which of the following should be included as a basis for representation on the regional body?
      a. population
      b. local government
      c. field of expertise
      d. other
   2. Which of the following powers for regional land use decisions would you favor or recommend for regional bodies?

	appointed	elected
a. advisory		
b. review and comment		
c. review and veto		
d. planning		
e. regulation		
f. provision of services		
g. control over special districts		
h. taxation		
i. other		

   3. Other

League of Women Voters of the U.S.
1730 M Street, N.W.
Washington, D.C. 20036

THIS IS GOING ON DPM

March 25, 1975

STATEMENT TO THE SUBCOMMITTEE ON ENERGY AND THE ENVIRONMENT

of the

HOUSE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

by

RUTH C. CLUSEN

PRESIDENT, LEAGUE OF WOMEN VOTERS OF THE UNITED STATES

on

HR 3510, "The Land Use and Resource Conservation Act of 1975"

Mr. Chairman and members of the committee. I am Ruth C. Clusen, President of the League fo Women Voters of the United States and appear today to represent League members in all 50 states and in communities of every size in urban and rural areas. I especially appreciate the opportunity to discuss some of the League's views on land use legislation because we have just completed a three-year process of review, evaluation and membership agreement on issues related to the use of the nation's land.

I am here to express firm League support for enactment this year of federal legislation which will:

- authorize financial assistance to state and local governments for developing programs and policies under which the wise use and conservation of the nation's land can be planned and implemented;

- establish standards to be used in the processes of developing such programs and policies -- standards to assure protection of public as well as private interests;

- require procedures and mechanisms for coordinating the activities of different agencies and levels of government in land use decision-making;

- provide guidelines to assure protection in land use decisions of goals already agreed to nationwide with regard to the environment and programs for people.

Setting such a national framework for state and local planning and implementation of land use programs is totally consistent with the United States Constitution's requirement that government promote the general welfare. When we get right down to it, the way land is used has much to do with whether or not the nation's people have equitable housing, education and employment opportunities today and whether future generations will have a potential for a rich or meager life.

Or, to put it as the Allentown, Pennsylvania League did in setting forth its members' thinking and position on land use: "the conclusions reflect outrage that land is being used as a speculative commodity rather than as a finite resource, and we expressed grave concern that, if priorities in land use decisions are not changed very soon, we stand to lose the future."

Today I want to do two things: review for you the basic League rationale and position on land use from the national point of view and comment specifically on certain aspects of the legislation before you, with special attention to League support and recommendations for the Udall/Steelman bill, H.R. 3510.

Later, we would welcome the opportunity to work with the committee staff on language in the final bill. Also, we should like to submit for the official hearing record reports from Leagues illustrative of their long-term work to gain sound land use planning and practices in their states and communities. In addition, we will forward examples of successful planning and the costly consequences of non-planning or poor land use planning and implementation in League communities.

As I indicated earlier in my statement, the League is in a particularly strong position to speak out in support of federal land use legislation this year. Members throughout the country have just completed an intensive round of discussions on land use policies and issues, and government and citizen roles in decision-making with regard to the use of land and its resources. We have heard from our local Leagues, and the result is a clear member agreement on a broad range of land use policies. We are ready to forge ahead with community information programs on land use and with support for enactment of legislation designed to set a federal framework for state land use planning and for coordination of federal and state policies.

The new League position has been developed in the context of other positions related to quality of the environment and equal opportunity for people. The basic agreement is as follows:

Land Use Position

"The League of Women Voters of the United States, recognizing that land is a finite resource, not just a commodity, believes that land ownership, whether public or private, implies responsibilities of stewardship.

In decisions about land use, public as well as private interests should be respected, with consideration for social, environmental and economic factors. Each level of government must bear appropriate responsibility for planning and managing of land resources. It is essential, at a minimum, that an appropriate level of government determine, regulate, and guide critical activities and the use of critical land areas. To guarantee responsive governmental decisions, citizen participation must be built into the planning and management of land resources at every step.

To these ends, the federal government should exert leadership to:

--encourage formulation of land resource goals;
--develop policies and standards for conserving land resources;
--foster coordinated planning and management of land resources by all levels of government;
--foster cooperation among agencies and among levels of government in establishing mechanisms that ensure consideration of all public and private rights and interests affected by land use decisions;

--minimize conflict of interest on the part of those who make decisions about land resources;
--ensure more effective citizen participation through such measures as adequate funding for citizen information and review."

Why are League members convinced that federal action on land use is needed urgently? Why now, in this time of energy problems and economic difficulties?

- Pressure is on full force for rapid development of new energy and power-producing and storage facilities. With growing recognition that resources are not limitless, we need a nationwide commitment to use and conserve them with care. It is urgent, therefore, that the federal and state governments make accurate inventories of land having unique values; that they establish a broad framework within which energy decisions are made and that they institute procedures for making land use and energy decisions that safeguard both public and private interests.

HR 3510 provides much-needed incentives to states to move ahead to protect valuable land and water resources. It requires participating states to develop processes to inventory land and water resources--including significant shorelands or rivers, lakes and streams, natural hazard areas, watershed lands and aquifers; and to develop policies and methods for regulation of development within these areas of "critical state concern". The time to get these programs going can be delayed no longer; we think federal legislation is the spur states and the nation need at the moment.

- For many years now, we have had experience with federal assistance for programs carried out at state and local levels. Yet very few states have adopted legislation to require, or provide, planning and implementation capabilities to see that even these federal programs are coordinated in ways to serve the best interests of the residents of particular states--much less the immediate surrounding areas and regions. Many of the federal assistance programs have their own planning components and requirements. These planning requirements are limited, for the most part, to the function of each specific program--not to any need for coordinated planning among the many disparate programs.

The result often is that federal funds are spent inefficiently and with conflicting purposes. HR 3510 should prove to be a step in the direction of coordinated planning. For example, Title III requires that participating states "shall include a statement of policies defining the States's role in land use decisions which are of more than local concern, including decisions affecting key facilities, large-scale subdivision or development projects, developments of regional impact, and areas of critical state concern". Because most of the development so defined relies heavily on federal grants and/or matching funds, coordinated planning of federal programs is bound to be a valuable by-product of the proposed assistance to states for planning. The new federal assistance for state planning proposed in HR 3510 can, therefore, result in major economies.

The League has put considerable effort into many of the federal programs alluded to above; for example, into gaining compliance with air and water pollution control standards, into support for planning designed to improve communities (with the aid of federal funds); into encouraging better housing in urban and rural com-

munities. Such programs, although designed primarily to protect the health and well-being of people, involve important land use decision in every instance. With better planning for the land use factors, the entire effectiveness of these and other federal programs should be improved.

- Leagues know that state and local governments are often frustrated by lack of effective staff and/or authority to make comprehensive plans for wise development, or having made plans, to implement them.
- They know that many times federal actions are taken without sufficient regard for the relationship to local and/or state programs or citizens' wishes; or, on the other hand, that state and local actions often do not comply fully with federal standards;
- They know also that local officials need assistance in dealing with land uses of more than local concern.

Each of those needs--to conserve resources in the face of rising energy demands, to coordinate planning and management carried out by all levels of government, to boost state capabilities, to provide planning assistance to local communities--all undergird League support for passage of HR 3510, or similar federal land use legislation this year. We view the Udall/Steelman bill as a stimulus to the states and localities for making and implementing plans and resolving conflicts arising from the perceptions, interests and objectives of different agencies and government levels.

We particularly endorse HR 3510 because:

--it leaves basic planning and management decisions to state and local governments, within a framework of federal standards;
--it establishes federal grant-in-aid assistance to help states develop and administer state land use programs;
--it provides planning assistance to American Indians to aid in their planning of reservation lands;
--it requires participating states to include in their land use programs a statement of policies defining the state's role in land use decisions which are of more than local concern;
--it leaves most land use decisions of local import in local government hands and provides local governing authorities a role in the development and implementation of state plans;
--it requires that federal decision-making in all programs related to land use will have to be coordinated among federal agencies, that federal activities affecting land use decisions within states must be consistent with state plans after three years, and that the federal government must plan for public lands and coordinate its plans with those of state and local government;
--it encourages interstate cooperation in the formulation and implementation of plans;
--it encourages establishment of land use patterns and practices designed to conserve energy;
--it includes meeting energy needs in the same context with comprehensive state land use planning, and provides the same procedures for decision-making and safeguards for the public and private interest.

Each of the above-mentioned features of HR 3510 moves in the direction of goals that League members agreed on after intensive study.

Now, I want to comment on a few provisions for which we should like some modifica-

tions:

1. Citizen participation. As we stated in the League publication, "LAND USE: can we keep public and private rights in balance?" "No governmental land use program can succeed without a strong citizen role. It is the citizen who ultimately is affected by land use decisions, who elects the responsible leaders, who supports the legislation, administration and enforcement, and who pays the bills. Because land use decisions involve weighing and balancing values, not merely making technical decisions, the citizen has a right and obligation to make his or her views known. Citizens without a direct profit interest need to be heard."

The League recommends, therefore, that provisions in HR 3510 with regard to citizen participation be strengthened throughout the bill. For example, the definition of "public involvement" should be expanded to include a requirement for citizen access to alternative proposals and choices. It is not enough that citizens be provided the opportunity to review and comment on one option, already drawn up by a state or local governing body.

We recommend, also, that provisions for citizen participation be delineated more precisely, as for example in HR 634 by Mr. Meeds or the Senate-passed bill of 1974. Another proposal we make is that receipt of continuing grants (beyond the first year period) should be conditioned upon assurances by the responsible state planning agency that processes have been developed and set in motion for realistic citizen participation in each step of land use decision-making. Another requirement is that funds must be provided to assure that citizens have an opportunity to be well-informed, that they have easy access to basic information and alternative choices--and that this be done in a timely manner.

At the federal level, opportunities for citizen participation should be required in the formulation of federal administrative regulations or guidelines, for review of state programs for conformance with federal guidelines, and in any determinations to continue or discontinue federal funding.

Often, the excuse is made that citizen participation causes delays in approval and implementation of programs. We maintain that full opportunity and aid for citizen participation in the various processes from planning to implementation can result in improved programs and fewer prolonged delays due to court suits--the last recourse for citizens denied a real chance to participate earlier in the process.

2. Central cities and metropolitan communities. In the Title III section on State Land Use Programs, Policies and Objectives, the bill requires states, in determining their roles in land use decisions of more than local concern to consider "(1) future food and fiber requirements, (2) future energy, industrial and commercial needs, (3) the need for an adequate supply of housing and related community facilities, (4) transportation needs, and (5) recreational and open space needs in both urban and rural areas." We propose adding to this list a sixth item: the needs of central cities and metropolitan communities. Metropolitan areas are where most people live now and are expected to live in the forseeable future. We are convinced that effective state plans relative to land use must take into account these major urban population centers, and that unless this is required, central cities and close-in metropolitan areas will continue to decline. In a time when energy conservation is so urgent and transportation and service costs so high, these areas must be viewed as major assets, to be conserved and improved--for humanitarian and economic reasons.

3. Effect on Existing Federal and State Standards (Title V, Sec. 509). Even though we assume that the intent of this bill is to ensure that nothing in H.R. 3510 (or any other land use legislation) is to be construed to "supersed, repeal or be in derogation of" other federal acts, we recommend within Section 509 (1) specific mention of the Clean Air Amendments Act of 1970 and the Water Pollution Control Act of 1972. These federal laws set standards which must not be negated or watered-down by actions taken by state or local land use planning and program agencies.

Our members also want the more stringent standards to apply in cases where state or local requirements exceed the federal air and water pollution standards. We prefer that this guarantee be written in as an additional subsection (j). (Note: provisions in subsection (b) may take care of this requirement; if so, this fact should be made clear in the legislative history as an alternative to adding subsection "j").

4. Standards for Public Works. [Title IV, Sec. 402 (d)]. The intent of this section in the "Federal Actions and Public Lands" title is not absolutely clear. It seems to exempt federal agencies (for example, the Corps of Engineers) from full compliance with requirements of the standards set forth under such acts as the Clean Air and Water Pollution Control Acts and NEPA. We are not making final assumptions on this action just now, or proposing specific language. We do take this occasion to alert you to the fact that members have reached firm agreement that governments have the responsibility to "require environmental, social and economic impact statements on major public and private developments". We want to be absolutely sure that a new federal land use act reinforces current requirements. This does not mean that we condone irresponsible or unreasonable and costly delays in meeting requirements for environmental or other consequences of any planning or program action.

As indicated earlier, we want to work with the committee staff with regard to the above-mentioned suggestions and other ideas which time constraints have made it impossible to develop for this hearing. You should know, too, that we are studying your bill, HR 634, Mr. Meeds, and that we appreciate the contribution made by you, as well as Chairman Udall and other members, over recent years in the interest of strengthening the nation's capabilities for wiser management and conservation of our land and its resources.

I appreciate the opportunity, Mr. Chairman, to appear before your committee today, especially in face of the large numbers of requests to testify you have had. Further, I pledge League support for national land use legislation: we will work in the congressional districts, the states and on the national scene for its passage this year.

League of Women Voters of the U.S.
1730 M Street, N.W.
Washington,D.C. 20036

This is going on DPI

March 26, 1975

Statement of Position On Land Use

The League of Women Voters of the United States, recognizing that land is a finite resource, not just a commodity, believes that land ownership, whether public or private, implies responsibilities of stewardship.

In decisions about land use, public as well as private interests should be respected, with consideration for social, environmental and economic factors. Each level of government must bear appropriate responsibility for planning and managing land resources. It is essential, at a minimum, that an appropriate level of government determine, regulate, and guide critical activities and the use of critical land areas. To guarantee responsive and responsible governmental decisions, citizen participation must be built into the planning and management of land resources at every step.

To these ends, the federal government should exert leadership to:

--encourage formulation of land resource goals;

--develop policies and standards for conserving land resources;

--foster coordinated planning and management of land resources by all levels of government;

--foster cooperation among agencies and among levels of government in establishing mechanisms that ensure consideration of all public and private rights and interests affected by land use decisions;

--minimize conflict of interest on the part of those who make decisions about land resources;

--ensure more effective citizen participation through such measures as adequate funding for citizen information and review.

DETAILS OF POSITION

Land Use Goals

These goals should guide and direct the planning and management of land in the United States:

* relate use of land to its inherent characteristics and carrying capacities;

* assure consideration of human needs - social, environmental and economic;

* incorporate conservation and wise use of energy and other basic resources into planning and management of land;

* protect private property rights and values in accordance with overall consideration of the public health, safety and welfare;

* develop processes for comprehensive land use planning;

* enhance local and state capabilities for planning and management of land resources;

* encourage regional planning and decision-making;

* require reclamation of lands damaged by such activities as surface mining, overgrazing, construction;

* develop a national policy on growth;

* maintain and improve the quality of existing urban communities;

* ensure public access to unique recreational areas, with due regard for carrying capacity;

* foster innovative community design.

Responsibilities of Government

The appropriate level of government should:

* inventory land resources and present uses;

* provide information on social, environmental and economic needs;

* identify and regulate areas of critical concern
  --fragile or historic lands, where development could result in irreversible damage (such as shorelands of rivers, lakes and streams, estuaries and bays, rare or valuable ecosystems and geological formations; significant wildlife habitats; unique scenic or historic areas; wetlands, deserts)

--renewable resource lands, where development could result in the loss of productivity (such as watershed, aquifers and aquifer recharge areas, significant agricultural and grazing lands, forest lands)

--natural hazard lands, where development could endanger life and property (such as floodplains, areas with high seismic or volcanic activity, areas of unstable geologic, ice or snow formations);

* identify and regulate areas impacted by public investment (such as transportation, energy uses, water and sewer utilities, waste disposal facilities) where siting results in secondary land use demands;

* identify and regulate those large scale private developments (such as industrial parks, subdivisions, new communities, shopping centers, rural land sales and development projects) that may have substantial impact upon the physical, social and economic environment;

* provide for land development of more than local benefit (such as low- and moderate-income housing, recreational and open space uses) not provided by the private sector;

* acquire land for public use;

* require environmental, social and economic impact statements on major public and private developments.

Role of the Federal Government

The League supports federal policies and programs that will enhance the capabilities of other levels of government to plan and manage land resources by these means:

--give other levels of government financial and technical assistance;

--collect, analyze and disseminate economic, environmental and social data;

--develop standards for planning and regulation of land resources by other levels of government;

--provide financial incentives for other levels of government to comply with standards;

--mediate in cases of interstate conflicts;

--invoke sanctions for those states and localities that do not comply with federal standards.

Coordination of Policies and Programs

To ensure full consideration of local, state and national interests in decisions about land resources, the LWVUS supports:

--development of mechanisms for decision-making that would involve all levels of government, public agencies, and public and private parties affected;

--development of ways to identify the scope of areas and activities of multi-state and national concern;

--review of federally funded projects by all governmental levels, for conformance with comprehensive plans at each level of government;

--conformance of federal land resource activities with approved state programs, where state standards are more stringent than federal standards;

--provision for an administrative appeals procedure in any arbitration process;

--procedures for mediation of intergovernmental conflicts.

555 WABASHA. ST. PAUL. MINNESOTA 55102 TEL (612) 224-5445

The League of Women Voters of Minnesota

MINNESOTA PUBLIC LAND REPORT

March 31, 1975

TO: Local League Environmental Quality Chairmen
FROM: Mary Poppleton, State Environmental Quality Chairman
September 12, 1975

Federally owned land comprises 3,348,000 acres or 6.5% of the land in the state. State-owned, state-administered land comprises 5,200,000 acres or 10% of the land area. In addition, the state owns and the counties administer an additional 2,900,000 acres or 5.5% of the land as tax-forfeited lands. All state owned land must be sold through public auction in either 40 or 80 acre tracts. All land sales must be approved by each department of the Department of Natural Resources. Sales are minimal at this time.

These figures are based on a total of approximately 51,033,000 acres of land in Minnesota, excluding major water bodies. Figures for state and federal ownership do not include the small amounts of land owned for sites of public institutions and highways.

Minnesota has two national forests, Chippewa and Superior and two national parks, the Boundary Waters Canoe Area and the area to be developed as the Voyageurs National Park. Development of this park is causing significant amounts of land to be withdrawn from other development. Forest land is administered by the Forest Service under the Department of Agriculture and the parks by the Department of Interior. The Department of Interior also administers land through the Bureau of Indian Affairs.

19,000,000 acres or 37% of Minnesota is forested. 56% or 9,500,000 acres of the forest land is owned by local, state or federal governments. State owned forest lands are available for recreational uses. Mineral resources currently being extracted comprise less than 0.2% of the land area. Potential conflicts could arise as most of the state's forest resources, national parks and valuable mineral resources are located in the northeastern section of the state. This area is also the location of prime land for recreational uses.

One problem articulated by a member of the State Planning Department: Residents in areas of the state with high concentrations of publicly owned land find the tax base inadequate to support local services. An attempt is being made to develop some method of returning to these areas income from other sources in the state.

Opportunity for citizen control over development of mineral resources is exercised through strict environmental legislation passed by the state Legislature. Mining companies are now required to file approved reclamation plans before beginning operation. Mining of the extensive copper-nickel deposits is under consideration and will probably be subject to control through state legislation.

land use letter

Our National Forests: Can They Meet Future Needs?

APRIL 1975

The tree--supplier of houses and paper, protector of water, shelter for wildlife, source of income, boon to humanity seeking respite under its branches--stands at the very heart of most issues about how we use our National Forest System (NFS).

The long-standing controversy between the timber industry and the conservationist-recreation user over the national forests points up the questions: How much should our national forests be logged to meet the demands for housing, paper and other wood products? How much should they be retained for future generations with minimal economic use? Other economic interests--notably, mining and grazing--also vie for use of NFS resources. Watershed protection is essential. Can the national forests serve all these demands?

A new law passed in August 1974--the Forest and Rangeland Renewable Resources Planning Act (PL 93-378)--could pave the way toward resolving some of these conflicts.

This LETTER will examine the issues, history, and laws that affect our national forests and outline the main features and probable impact of the new law. It will describe why they are important to all Americans and suggest ways you can become involved in their future.

THE NATIONAL FOREST SYSTEM: A PERSPECTIVE

A family sharing a Black Hills, S.D., campsite with a chipmunk...a grizzled prospector winding up his years in a fruitless search of the Superstition Wilderness of Arizona...a black bear venturing into a cove in the Shenandoahs of Virginia...a logging truck moving along a sandy road in Georgia...the cathedral atmosphere of the towering Douglas fir of Oregon...acres of burned-over hillsides in California...a herd of cattle grazing on a Nevada plain.

A kaleidoscope of such scenes can only touch on the scope of our national forests. A perspective is needed to assess their role in time and space.

In Time

From the earliest days of the nation's history, the federal government was the major landholder beyond the original 13 states. These holdings formed the original public domain--western land ceded to the new government by the first 13 states and land later acquired by purchase and conquest. The federal government used its vast holdings west of the Appalachians to encourage the settlement and development of the new nation. Much was sold as a revenue source, much given or made available at low cost for farming, towns, railroads, education and mining.

When the NFS was established near the end of the nineteenth century, it signalled a major change in federal land disposal policies. As more and more forests were cleared for farming in the steady westward movement of people or devastated by uncontrolled forest fires, some national leaders had become worried about the continuing supply of lumber and about serious erosion and flooding problems.

The first forest reserves were created in the western public domain in 1891, mainly for fire

This LAND USE LETTER is the first of a new series, each of which will focus on one issue related to public or private lands. These LETTERs are addressed primarily to those who want to learn about emerging public issues; those already versed in their intricacies should find the reports helpful in their local education efforts. Each LAND USE LETTER will provide factual information to stimulate discussion on the complexities of public issues, complexities that the LETTERs will reflect by linking land, environmental, human resource and energy considerations. We hope you will encourage other organization members, educators, students, subject specialists and public officials to use the LAND USE LETTERs as they explore specific community concerns.

protection. In 1905 Gifford Pinchot succeeded in having the forest reserves transferred from the Department of Interior to the Division of Forestry in the Department of Agriculture (USDA) and spearheaded efforts to enlarge the forest holdings. Pinchot headed the new USDA Forest Service and managed it under legislation providing for timber production and watershed protection.

The reservations for NFS land in the far West were largely completed by 1908. In 1911 Congress empowered the Forest Service to buy and restore land "necessary for protection of navigable streams." Most of the land acquired under this legislation (the Weeks Act) is east of the Great Plains, largely along the Appalachian range.

In Space

Today the National Forest System, administered still by the USDA Forest Service, contains a total of 187 million acres. That's about one-twelfth of the nation's land area. Even so, it is only one-fourth of total federal holdings, which also include military and Indian reservations, national parks, wildlife refuges, and the 450 million acres of unallocated public domain administered by the Department of the Interior, Bureau of Land Management (BLM).

The NFS encompasses 155 national forests, 85 wilderness areas, 19 national grasslands and 17 land utilization projects (the last two categories include water conservation projects and land reclaimed from dust bowl devastation in the 1930s).

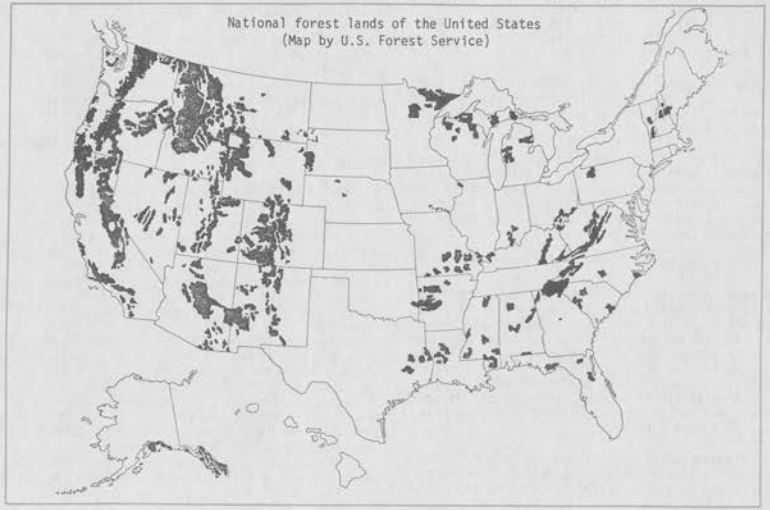
Wilderness areas constitute an unique Forest Service mission. Since the agency designated the first wilderness in New Mexico in 1924, the National Wilderness Preservation System in the national forests now covers 11.5 million acres--94 percent of all designated federal wilderness. Logging, roads, motorized vehicles, and permanent structures are prohibited in such areas. Existing grazing, prospecting and mining rights are continued, however. Only Congress can establish new wildernesses or modify existing ones.

WHO USES THE NATIONAL FORESTS?

For Survival

In certain ways, almost every American uses the national forests, because they receive, store and make available most of our water supplies. In mature stands, forest canopies are efficient collectors of water and inhibitors of evaporation. The moist shade protects the ground from the direct rays of the sun. The water conserved often outweighs the amount released into the air by transpiration through minute leaf pores. The undisturbed forest soil permits steady percolation of water into the water table. Many of man's activities in the forests affect the watersheds--logging, road-building, waste disposal, silviculture practices. So, for simple reason of survival, forest management must include watershed management, taking into account water storage, water quality, erosion prevention and flood control.

National forest lands of the United States
(Map by U.S. Forest Service)



More than four million big-game animals (nearly half the nation's supply), numerous species of fish and 39 endangered wildlife species make their home in the national forests. The Forest Service and states cooperate in trying to maintain a balance between numbers and food supply. Hunting and fishing are allowed, regulated by state game laws. The forest habitat attracts wildlife because it offers food, water, shelter and a relatively low level of man's presence. Nevertheless, even in national forests, wildlife can become a victim--of ranchers protecting their grazing herds, of chemicals for insect control, even of over-enthusiastic nature observers.

For Fun

Ever since the advent of the family auto, the number of picnickers, hikers, campers, fishermen, boating enthusiasts, hunters, skiers (most commercial ski areas are in national forests), naturalists and others seeking respite from urban congestion has been growing. Many prefer the natural surroundings and less crowded conditions over intensively developed recreation areas. Most recreation use is free; at developed sites, most of which are under permit for commercial use, nominal admission and user fees are charged.

For Profit

National forests are available for commercial users of their timber, forage and minerals. Government receipts for these activities totalled $470 million in 1973, of which $446.7 million came from sale of over 10 billion board feet of timber. One-fourth of timber receipts are returned to the counties where the national forests lie, in lieu of taxes for roads and schools.

National forest timber is usually sold at advertised sales by competitive bidding, which starts at an appraised price. The successful bidder buys and cuts the timber. Details of where and how to cut trees, roadbuilding standards and site restoration measures are specified in the sales contract and supervised by the Forest Service.

Not all national "forests" are timbered; among them are substantial acreages of range and grasslands, where grazing privileges are granted to ranchers to "round out" their year's forage supplies. An estimated 65 percent of all the beef and breeding cattle in the 11 western states graze at some time on NFS rangelands each year. When the Forest Service first acquired rangeland, much of it was in deteriorated condition from overgrazing. The agency has partially reduced the numbers of cattle and sheep and is continuing rehabilitation efforts.

Grazing fees, traditionally low in the past, are being raised to fair market value under a formula agreed to by the Forest Service and BLM. Although it is due to be implemented in stages by 1980, the Secretary of Agriculture has suspended the annual increase for 1975 because of economic hardship attributed to the livestock operators.

Some NFS lands contain valuable deposits of hardrock minerals and of coal, oil and gas, which are generally available for private exploration and mining. It is known, for example, that national forests in the West overlie most of the nonferrous metal reserves in the United States. Interestingly, most of the supervision of mining exploration and extraction is handled not by the Forest Service but by the Department of Interior.

Several leasing authorities enacted by Congress govern the mining of fossil fuels on federal lands. The government has control over their extraction and retains the ownership of the surface land and, in most cases, the subsurface minerals. The Forest Service has authority to deny a lease on its lands or to attach conditions to the lease to minimize environmental damage.

The rules about hardrock mineral ores (mostly gold, copper and lead) constitute major loopholes in the effort to preserve national forests. The General Mining Law of 1872, still in effect, gives the prospector the right to explore, to stake claims and, if substantial discovery can be shown, to acquire title to the surface land for a small fee per acre.

New regulations give the Forest Service limited controls over mining operations as they affect surface qualities of the land. During prospecting and preliminary operations, the Forest Service now requires notice of intent to mine. If the operation will have substantial environmental impact, the Forest Service requires the operator to submit a plan of operations for approval and a bond commensurate with the cost of rehabilitation.

Executive withdrawal, or designating land for special purposes to remove it from application of public land laws, has sometimes been used to prevent mining operations on federal land. Several million acres have been withdrawn in the national forests for such purposes as campground, picnic or recreation area, experimental research forest, watershed or game refuge.

The Wilderness Act of 1964 allows mining in wilderness areas but will prohibit staking of new claims beginning in 1984, although mining on established claims can continue indefinitely.

WHO MAKES THE RULES?

The national forests, like the rest of the federal lands, have many decision-makers and many publics, each with a role in influencing the uses we make of forests. Congress, the President and

other high echelons of the executive branch set overall policy through laws, regulations and the budget-appropriations-allocation system. Critics feel that the customary budget-appropriations-allocation procedure used in general government services has basic defects when applied to land and resource management. Long-range investment in land and resources can protect the soil and water for future generations, create wealth for the government and contribute to the economy through regeneration of renewable resources such as timber and forage. The familiar budget-appropriations-allocation system more often emphasizes holding down budgets and takes a year-to-year approach.

Within the administration of the NFS, the basic unit is the forest ranger district (682 ranger districts in 155 national forests). The district ranger, although at the lowest bureaucratic level, has been delegated more authority than most front-line bureaucrats wield, because firsthand professional knowledge of the local situation is believed to be more effective than centralized management. He handles timber sales, develops plans for the district, manages its resources and activities according to policies set by legislation and administrative regulations, and directs fire-fighting. Two levels of administration lie between the ranger district and the Forest Service headquarters in Washington, D.C.--the forest supervisor and one of the nine regional offices--each of which contributes supervision and expertise. The Forest Service in Washington formulates overall policies and objectives, supervises the agency's general activities, issues administrative regulations, and works on budgetary, appropriation and legislative matters.

Who are the many publics to whom Congress and the executive branch (from the President to the district ranger) must respond? The general public whose varying demands have influenced the way the national forests are used--for water, for lumber, for recreation, for example--has an essential if hard-to-define role. Much of this public is unaware of the scope or variety of the national forests. Organized interest groups form a public whose awareness and concern is considerable. Among them are industries whose fortunes are tied to use of timber, professional foresters, conservation and public interest associations.

Citizens in the vicinity of a national forest, including its direct economic users, form a regional public with strong and active concern for governmental policies and regulations that affect their livelihood and the economy of the region. State and local governments whose own policies are strongly linked with those of the national forests constitute yet another public.

LAND USE PLANNING AND THE NATIONAL FORESTS

One of the most significant pieces of legislation presently guiding land use planning and management of the NFS is the Multiple Use-Sustained Yield Act of 1960--actually a reaffirmation of the philosophy of Gifford Pinchot from the earliest days of the forest system: to manage the national forests for timber, forage, water, recreation, wildlife and fish to meet the continuing needs of the American people without impairment of the land. This act was responsive to the conflicting demands for the economic resources and recreational needs as well as to fears that our resources were being needlessly depleted.

Much basic land planning takes place within the individual forests. Since 1973, Forest Service regulations set forth how its planners are to compile information about the land and its capacities, the resources, national goals and public opinion as a basis for presenting alternative land use plans. Forest Service planners must take into account such factors as recreational and scenic values and areas of special significance such as wilderness, archaeological sites and geological formations. The time element can also be a factor, since different uses can often be balanced at different times--during the year and over the years. Environmental values must be considered for each alternative land use plan, to meet the 1969 National Environmental Policy Act's requirements for impact statements for federally funded projects.

A form of zoning is used in making land use plans. Recognizing that the balanced management envisioned in the Multiple Use-Sustained Yield Act cannot realistically require balanced management of each individual acre, Forest Service planners try to develop comprehensive plans that allocate each use of the forest to the area most suitable.

The Forest Service has recently stepped up efforts to inform and involve the public, moving away from the use of formal advisory boards because of their tendency to become static and user-oriented. It now favors informal and ad hoc public involvement in each land use plan. Regulations call for seeking out a wide spectrum of public interests. In addition to advertised public meetings and hearings, planners have been using workshops and open houses to draw out public knowledge and opinion during the formation of alternative plans. Another technique is to tabulate comments in letters from the public to give decision-makers an overview of public opinion.

Evaluating public opinion and weighing it with the national interest poses a special problem for Forest Service planners. They can readily reach the public near a national forest but often find it difficult to reach the national public. For instance, Montana citizens may have a lot to say about a land use plan for a national forest in their state, but the thousands from other parts of the country who vacation in the forest or who simply have a vested interest as citizens have no effective voice in influencing the plans.

ISSUES AND PROBLEMS IN THE NATIONAL FOREST SYSTEM

Timber Tug-of-War

The timber controversy over management of our national forests must be considered in the context of the entire commercial forest area in the country. Twenty-two percent of the U.S. land area--500 million acres of public and private land--is composed of forest, identified by reason of soil, environment and accessability as suitable for the commercial harvest of timber.

About 60 percent of this commercial forestland is owned by farmers, small woodlot owners and private individuals and corporations outside the forest industry. Much of this is seriously depleted: an estimated 40 to 50 million acres have been cut over and need reforestation; much of the rest needs better management. About 13 percent is owned by the forest industry and nine percent by other local, state and federal agencies.

The NFS contains only about 19 percent of the total commercial acreage in the U.S. but--and this is an important "but"--more than half the nation's wood supply. The loss of productivity on the huge acreage owned by the farmers, small woodlot owners and others has generated a great deal of the pressure to log the national forests.

It is not hard to see why an industry and economy hungry for wood commodities and paper pulp is trying to make use of the national forests. The industry cites public demand for housing as a prime reason. Wood products are also used for paper, packaging materials, furniture, plywood and other consumer goods. The United States used 12.7 billion cubic feet of timber in 1970; the forecast for 1980 is 16.4 billion.

Nor is it hard to see why conservationists are demanding equal consideration of the NFS lands' other benefits, as the Multiple Use-Sustained Yield Act requires. The national forests should not become giant tree farms; they urge, instead, that privately owned land should provide a greater proportion of timber. They fear serious consequences for the nation's watersheds if widespread logging occurs on NFS holdings.

SUSTAINED YIELD

The policy of "sustained yield," under which the NFS operates, implies that no more should be cut than in being grown. In fact, funding has never been high enough to pay for all needed reforestation and improvement of tree stands. Today an estimated backlog of 3.3 million acres of national forest needs reforestation. The job is being handled at a rate of about 400,000 acres a year, sufficient to replace the amount cut or lost by fire and insect damage each year but not enough to make any real dent in the backlog.

Ironically, there is a law on the books--the Knutson-Vandenburg Act--that requires timbercutters in the NFS to pay a deposit to be used for forest rehabilitation. The level of reforestation the act requires has not been achieved in part because of its requirement that the funds be spent where collected; areas most in need of reforestation often do not produce enough income to accomplish the job while other areas have a surplus. Another crippling restriction in the act bars use of these funds to restore areas deforested by fire, insect epidemics or other natural disasters.

MULTIPLE USE VERSUS DOMINANT USE

The Forest Service is charged with managing its land for multiple use, with no one use dominating another. In 1970, however, the Public Land Law Review Commission (PLLRC), which was set up to recommend overall policies for federal lands, proposed a shift to a dominant use policy for timber production on federal lands. The PLLRC contended that intensive management on selected lands most suitable for timber production would allow perpetual production of significant amounts of wood (and increase the profit by four times) without environmental damage. Although theoretically,

HOW TO GET INVOLVED

The public can get involved in NFS planning on both the national and local level. For those interested in the program to be proposed under the Forest and Rangeland Renewable Resources Act, copies of the act and documents relating to its implementation are available from the U.S. Forest Service (address pg. 8). Watch for announcements of field hearings or contact the nearest regional Forest Service Office.

Any interested citizen in an area near a national forest where land use planning is underway should watch for announcement of such activity and contact the planning team leader or forest supervisor. Those with expertise in the environmental, social or economic fields are especially urged to participate. Workshop and openhouse sessions with the planning team are usually scheduled to the convenience of the public.

The Volunteers in the National Forest program seeks persons with expertise in such fields as sociology, political science, economics, environmental matters (biology, geology, archaelogy, landscape architecture), consumer affairs and writing. Anyone interested should contact the individual supervisor to learn if a volunteer program is functioning and if one's area of expertise is needed. Transportation and expenses may be provided. Information about advisory boards may be obtained from the same source.

dominant timber use would not preclude other uses where they are compatible with timber production, conservationists wonder whether secondary uses such as recreation would or could occur.

While the policy of dominant timber use has never been formally adopted, environmentalists charge that the imbalance of funding has made timber production a favored use over other uses. They point to funding by the Office of Management and Budget and Congress, through their budget-making and appropriations functions, as intensifying this shift. The funding of the National Forest Development Program from 1963-1070 shows that timber sales and management received 95 percent of funds requested by the Forest Service while recreation and public use got only 40 percent; wildlife, 45 percent; and soil and water conservation, 52 percent. Conservationists see balanced funding as essential to maintaining the policy of multiple use, to protect the intangible assets of our forest heritage for both present and future generations.

INCREASED LOGGING

One trend in the NFS is indisputable: timber-cutting on national forests is fourteen times greater than in 1920, four times greater than in 1950. Such growth has a dynamic of its own. The issue of clearcutting (removing all growth from an area instead of selectively removing only mature growth) may be generated in part by the sheer volume of cutting. Those who decry the system of clearcutting, one of the most hotly-debated logging practices in national forests, contend that it is overused, leading to destruction of wildlife habitats, extensive erosion, water quality degradation and scarring of beautiful landscapes. Clearcutting is defended by others on several grounds: it permits more rapid regeneration; it is cheaper and therefore provides the best way to meet consumer demand for moderately-priced wood products; and it requires less road-building. Many would take a middle ground, pointing out that the issue is not whether clear-cutting should be abandoned completely, as it is suitable for some species of trees and wildlife. Instead, they say, the question is how much should be allowed and under what control.

Any solution to demands for more timber production, be it on federal lands or private woodlots, is likely to entail greater government spending. Thus, more timber production means more intensive management, involving investment in personnel and reforestation. Incentives to small woodland operators to reforest cutover land are seen as one way to ensure renewed production from the small woodlots that constitute so much of our commercial forest lands but are now producing only about half their potential. The Administration in its proposed budget for fiscal year 1976 has recommended discontinuing such an incentive program and sharply reducing NFS reforestation funds to cut federal spending. Both were funded by Congress for fiscal year 1975.

More Wilderness?

Nothing points up the conflicts over use of the national forests more vividly than the wilderness issue, certainly the most emotional issue and the one affecting the greatest land area. Strongly motivated conservation groups are attempting to have another 56 million acres of "de facto" wilderness added to the Wilderness Preservation System. These are some 1,500 remote, roadless and undeveloped areas that environmentalists believe must be saved in their present state and protected from future logging.

This "de facto" wilderness is in addition to the 11.5 million acres of designated wilderness and the 3.6 million acres in "primitive areas" already being studied. The Forest Service in 1973 designated for study and possible recommendation to Congress, 254 new areas covering some 12 million of the 56 million acres "de facto" wilderness. The other 44 million would continue under multiple use and presumably will be opened for logging eventually. However, the 1973 decision didn't go as far as the environmental groups would have liked, and they are still pressuring for more wilderness. They say the land at issue contains some of the finest scenic areas and wildlife habitat in the nation, that logging will scar it forever, that there is plenty of other commercial timberland. Industry is opposed to additional wilderness because this designation withdraws land from logging as well as some forms of mining and grazing. Pressures on this issue are likely to intensify on both sides until a final determination is made

Checkerboard Ownership

National forests, like most other federal lands, are not laid out in neatly arranged compact areas. Because of past patterns of public land acquisitions and disposal, much federally owned land and private land are intermingled. In the national forests in the East, acquired by purchase, ownership is particularly fragmented. Overall, within the outer perimeters of the national forests, more than one acre in five is in state or private ownership; in the East, the figure is nearer half.

With a cumulative "lot line" of 272,000 segmented miles that form the boundaries between the national forests and their neighbors, administrative problems are to be expected. Until the 1960s, major problems seldom surfaced, although there was always some concern that abutting owners had many of the advantages of ownership without the cost and responsibility.

The proliferation of second-home subdivisions, bringing suburban sprawl to the forest neighborhood, has created new dimensions to the problem. These developments increase the cost of adjacent private land, precluding significant additions to the NFS and encouraging speculation. They destroy wildlife habitat and put burdens on NFS

roads, utilities, sanitation and watersheds. An additional result has been expensive policing of property lines to protect public rights. Their location tends to distate where the Forest Service can permit timbercutting. Ironically, the developments have in many cases destroyed the very forest ambience that attracted their location--and at the same time have spoiled the ambience the public expects in its national forests.

Where actual damage is done to public lands, the Forest Service can take a developer to court, but few other controls are available. The Forest Service can prescribe certain conditions for passage across public lands to reach private property to prevent injury to the national forest, and it can insert controls through its power to issue permits for power transmission lines and water transmission. More public involvement in the NFS planning process is seen as a possibility for bringing citizen pressure for conformance to a mutually acceptable land use plan for the national forest in these situations.

Under existing laws, the Forest Service is authorized to acquire these islands of private property within a national forest by purchase, exchange or donation, to block up holdings for more efficient management. Price of land and difficulty in agreeing on mutually acceptable exchanges have limited major additions to the NFS.

Although land use planning in many adjacent localities is non-existent, the mushrooming of subdivisions in and beside national forests is spurring planning interest in some places. These developments contribute to local governments' problems with roads, water, sewers, trash removal, schools and taxes. Forest Service planners see land use planning on private land adjacent to the national forests as the best way to deal with the problem of intermingled ownership but believe a way should be found to protect the national interest in the national forests, such as coordination of Forest Service planning with that for the surrounding private land.

Jigsaw Puzzle of Law and Administration

Coherent planning for use of public lands has been complicated by the many conflicting laws affecting federal lands; administration of these lands has been fragmented and confusing because responsibilities are divided among several federal agencies. The Forest Service and BLM each sell timber, but each under a different set of rules. Each issues grazing permits but at different prices. Different laws apply to lands that were acquired later by purchase, even though they are put to the same use and managed by the same agency. Old mining laws seem incompatible with later laws in permitting activities such as prospecting and mining on designated wilderness areas. Data compiled by various federal agencies are not always consistent, another factor often making planning an exercise in futility.

Proposals have been made from time to time to consolidate federal land agencies in order to bring some uniformity of management to the federal lands, on the administrative level, at least. The PLLRC in 1970 proposed merging the Department of Interior and the Forest Service into a single new Department of Natural Resources. Some opponents suggest that competition between two major land agencies may be a healthy condition and that administrative reorganization may only mask basic issues rather than resolve them.

NATIONAL FORESTS AND ENERGY

The energy crisis and consequent efforts to minimize U.S. dependence on imports have added pressure to use those parts of the NFS that contain sizeable reserves of oil and low-sulfur coal and those that are likely candidates for exploration and development of natural gas. Increasing numbers of Forest Service personnel are preparing environmental impact statements and responding to applications for mineral leases and transmission lines for their development.

As power plants and other industries are required to install expensive equipment to check pollution from high sulfur coal and as the cost of burning oil rises, the demand for low-sulfur coal soars. Large but currently unknown quantities underlie national forests in Wyoming, Montana, North Dakota, Colorado, Utah, Arizona and New Mexico. Although industry sees these deposits as an immediate source of energy, citizen resistance to western coal development is building up as the potential long-term effects on the land of large scale mining become known. Some of the damage from soil erosion, consumptive use and pollution of water, as well as disposal of wastes, can be mitigated by controls imposed by the Forest Service; however, extensive coal development in the West will inevitably make some changes in landscape, water supply, vegetation and wildlife.

The search for alternate energy sources also has implications for national forests. For instance, in the West and Northwest, there are many opportunities for developing geothermal energy. Maine is even looking into the extraction of wood alcohol as an energy source.

NEW FOREST ACT: A FOCUS FOR LAND USE

The Forest and Rangelands Renewable Resources Planning Act (PL 93-378) passed in August 1974 is a little-heralded piece of legislation that could provide a framework for forest land use planning in vast areas of the United States and ensure a continuing supply of the many rich resources of the nation's forest lands.

The act places more long-range planning responsibility on the Administration and Congress, requiring that they decide what amount of resources--timber, wildlife, water, forage and recreation--will be required from national forests to meet

future U.S. needs. It also attempts to force sufficient federal spending to make such a program possible--a significant break-through, since it often has been expedient in the past to postpone major investment in federal lands. Benefits (i.e., the maturing of stands of seedlings) may not be realized for many years.

Specifically, the act provides:

☐ The Forest Service is to prepare a Renewable Resource Assessment by the end of 1975, covering the present and potential supply of forest and range resources in the United States and a projection of future needs. The data-gathering covers all U.S. forest and rangeland, public and private. In the past, critics of public land policies have complained that such policies are often set without comprehensive data and realistic goals based on future requirements. The act authorizes an amount not to exceed $20 million a year to maintain needed surveys.

☐ The President is to submit for congressional approval every five years a program for protecting, developing and managing NFS renewable resources in such a way as to provide for future needs for these resources. The President's first program is also due December 31, 1975.

☐ The President is required to seek and allocate the full amount needed to implement the program each year, including an amount needed to bring the backlog of needed national forest restoration up to date by the year 2000--or tell the reason why. This provision, the "crunch" in the act, will take effect in the FY 1977 budget. Whether Congress will try--or be able--to force the issue remains to be seen. The outcome may depend on economic conditions at the time.

A critical implication of the act involves how great a timber cut should come from the national forests and how much from privately owned forest lands in order to meet the stated national goals. This decision in turn affects other public uses such as wilderness, recreation and esthetics. Federal investment in reforestation of cutover private forest lands is seen as a possible consequence in fulfilling the goals.

Although the act does not refer to comprehensive land use planning, the federal land policy and the data that will emerge will have implications for all public and private forest rangeland and may stimulate state and regional planning.

The Forest Service has presented its plans for the assessment to the public for review and comment. Further public imput will be possible when policy alternatives are presented and on issuance of the first draft of the assessment in August 1975. Field hearings are tentatively planned before the completed assessment and the President's program for meeting needs are presented to Congress at year's end.

U.S. FOREST SERVICE REGIONAL OFFICES

Northern (ID, MT, WA): Federal Building, Missoula, MT 59801

Southwestern (AZ, NM): 517 Gold Avenue, S.W., Albuquerque, NM 87101

California: 630 Sansome Street, San Francisco, CA 94111

Rocky Mountain (CO, NE, SD, ND, WY): 11177 W. 8th Avenue, Lakewood CO 80225

Intermountain (UT, ID, NV, WY): 324 25th Street, Ogden UT 84401

Pacific Northwestern (OR, WA): P.O. Box 3623, Portland, OR 97208

Eastern (IL, IN, MI, MN, MO, NH, OH, PA, VT, WV, WI): 633 Wisconsin Avenue, Milwaukee, Wisconsin 53208

Southern (AL, AR, FL, GA, KY, LA, MS, NC, SC, TN, TX, VA): 1720 Peachtree Road, N.W.,Atlanta, GA 30309

SUGGESTED READING

Clawson, Marion, Forests--For Whom and For What? 1975, Johns Hopkins Univ. Press, Baltimore Md. 21218, $10.00

Frome, Michael, The Forest Service, 1971, Praeger Publishers, 111 4th Ave., New York, N.Y. 10003, $9.50

Single copies of the following may be obtained free from U.S. Forest Service, Office of Information, Rm. 3230, S. Agriculture Bldg., 12th & Independence Ave. S.W., Washington, D.C. 20250:

- Guide to Public Involvement in Decision-Making
- Report of President's Advisory Panel on Timber & Environment
- Outlook for Timber in the U.S.

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land use letter

One-fifth of Our Nation's Land: How Should It Be Used?

MAY 1975

Two principal economic resources found in the west--forage for livestock and fossil fuels for America's energy demands--vie for use of the national resource lands, the 450 million acres of federal lands managed by the Bureau of Land Management (BLM),an agency of the U.S. Department of Interior.

These lands--one-fifth of the U.S. land area--are rich in other values, to be sure. They hold a potential for recreational and wilderness areas. They are home to many varieties of wildlife, including specially protected wild horses and burros. They have breathtaking vistas of deserts, canyons and mountains. They protect vital watersheds that supply water for domestic, industrial and agricultural use. They contain a wealth of yet undiscovered archaeological secrets. They have important stands of timber.

Grazing and mining, however, have dominated the scene from the beginning of federal land management and continue to provide two vital elements of the American economy--food and energy. Disparate points of view may be heard in a discussion of the role of BLM, which administers these lands. One voice says: the coal,oil and gas under these lands must be mined at a faster rate to alleviate the energy crisis. Another says: with a world food crisis, the food that the rangelands can supply through cattle and sheep production is needed to feed people here and abroad; strip mining, widespread recreational use and reservations of wilderness areas will rob us of this food resource. Still another voice: be careful, America, this is our last remaining undeveloped land; it has already been damaged, and unlimited grazing and mining could despoil a resource that we and those who come after us should be able to use and enjoy in many ways.

Can these demands be accommodated? The uses to which national resource lands in the lower 48 states are being put, with special attention to grazing and its effects on the land for other uses, are the subject of this LAND USE LETTER. It also looks ahead to decisions which will affect future use of Alaskan lands. Issue No.2 provided an overview of the overall administration by BLM and proposals for enacting a single statutory authority for the agency (BLM Organic Act).

THE RANGE: IT NEEDS HELP

About 150 million acres of land managed by BLM are being used for grazing by about 23,000 ranchers who hold permits to use the land for a fee. Nationwide about 4 percent of the beef cattle and 28 percent of the sheep spend some time on BLM range, but in the West, the proportion rises to 19 percent of the cattle and 61 percent of the sheep. To many ranchers, BLM land is crucial to economic survival because on it they can round out their year's supply of range livestock forage. Thus this land must be considered in any effort to increase meat or wool production. One suggestion receiving public attention, for example, calls for more grass-fed beef so that croplands now producing livestock feed grains could provide more grain for human nutrition. Another suggestion proposes greater emphasis on wool over energy-consumptive synthetic fibers.

By BLM's own estimate only 28 million acres of the potential grazing acreage, or 17 percent, are in satisfactory or better condition. The rest--135 million acres, or 83 percent--is in fair, poor or even bad condition. Thus 83 percent of this resource is in a deteriorated state with varying degrees of loss of ground cover, loss of the more desirable forage plants, gain of plants less palatable to livestock, exposure of the soil to wind and water erosion. BLM further estimates that productive capability may decrease by as much as 25 percent in the next 25 years, unless BLM can focus special attention on rehabilitating these lands--not necessarily by removing livestock but by improving range management.

How did these lands reach such a sorry state--the land that once maintained vast herds of buffalo, antelope and deer? Just as gold first attracted the white man to the West in the 1500s, it was the open range with a seemingly endless wealth of forage that attracted huge ranching operations in the late 1800s. Uncontrolled numbers of sheep and cattle ate more than nature was able to restore. Much of the damage occurred at that time--damage from which the land has never recovered. Hard on the heels of these big-time ranchers, who based their operations on the open range, came the homesteaders who built fences, broke the sod and planted crops on tracts of former rangeland that was often totally unsuited for crop farming.

The huge ranches ultimately went out of business after a series of droughts and severe winters, but grazing on the range continued under smaller operators--and so did soil depletion, flooding and the weakening and disappearance of the better forage crops. Roads, dams and other man-made constructions have had eroding effects on the range as well.

First Reform: The Taylor Grazing Act

Although some early conservationists pressed for reforms, they were unheeded until the early 1930s when

the added aggravation of prolonged drought had reduced the range to only half its original productivity. In 1934 the passage of the Taylor Grazing Act put the open range under federal management and regulation by establishing the Grazing Service (later part of the BLM). To conserve the range resources and stabilize the faltering livestock industry, the act set up a system for leasing certain areas to ranchers in grazing districts and for controlling the number of grazing animals.

The allocation of grazing privileges among the ranchers within each grazing district was the first job of the new office; the scientific adjustment of livestock numbers to the carrying capacity of the land and other conservation measures were beyond the capability of the Grazing Service at that time.

Ranchers themselves had a major role in implementation of the act. For the simple reason that in the beginning the Grazing Service was allowed a staff of only 17 to deal with the millions of acres of grazing land scattered throughout the western states, it fell to the ranchers, who made up most of the membership of advisory boards for each grazing district, to provide the only knowledge and advice available to the government's staff. Although many ranchers objected to any limits on the amount of forage they could use, allocations were made under this system. Grazing boards had 12 members elected by the rancher-users and a wildlife representative appointed by the Secretary of Interior. The usual result was twelve ranchers and one sportsman (who was likely to be a rancher as well). These boards are now being abolished; on the multiple use advisory boards being set up, no one interest may dominate. (See LAND USE LETTER No.2.)

New Proposals for Range Improvement

With the limited capabilities resulting from low funding and manpower, the 40-year management history of the public range is one of deterioration slowed but not halted. In the late 1940's BLM did begin to hire professional range conservationists and to develop data and new range management techniques. During the past 10 years, BLM range specialists believe that in selected areas they have demonstrated methods that could improve range conditions and eventually increase the share of the nation's beef supply from BLM lands by 30 percent; at the same time, they could check erosion and improve wildlife habitat.

These methods do not require the removal of livestock from the range; instead livestock is rotated among various areas according to a plan that takes into account the carrying capacity of the land, the forage plant species involved, the wildlife needs, soil protection and water quality.

At present only 25 million of over 150 million grazing acres are managed in this way. A substantial increase in funding would be necessary to bring significant additional acreage into such a program, according to BLM. It is needed for fencing, water collection, wildlife maintenance and supervisory man power. Currently, the complement of range specialists who monitor the 150 million acres of grazing land is about 300 out of a total of 5,000 BLM employees. The 300 include those in the Washington, D.C., headquarters and state offices as well as those actually in the field. According to BLM's January 1975 Range Condition Report, a total one-time investment of $330 million would be required, followed by annual operating and maintenance costs of $33 million.

The proposed Administration budget for fiscal year 1976 does not reflect any additional funds for range management; in fact, the budget indicates a $3 million decrease in appropriation for renewable resource use and protection (such as grazing, timber and watershed uses) and a $31 million increase for energy and mineral management. In addition to appropriations, some funds from grazing fees are dedicated to range improvement. The amount available in 1976 is expected to be only enough to maintain existing fencing and water facilities for livestock and to construct such facilities in the areas that have recently come under the intensive management program.

Whatever may happen to BLM's budget prospects for range improvements as a result of congressional appropriations, BLM is moving ahead with proposed new grazing regulations that would constitute the first major overhaul since the Taylor Grazing Act was implemented in the 1930s. Drafts have been sent to field offices where they are being distributed for public review and comment. (State and district BLM offices are listed in LAND USE LETTER No.2.)

BLM range specialists say the new regulations will require greater consideration of environmental values; streamline the grazing management with uniformity, clarity and efficiency; emphasize an intensive management program based on modern range methods; provide for other uses of the national resource lands besides grazing; improve the economic capability of the ranchers; provide for means of dealing with infractions of regulations; and spell out the responsibilities of the private user and the BLM for range improvement.

HOW GRAZING PRIVILEGES ARE DISTRIBUTED

Many of the 23,000 grazing permit holders use the federal range on a seasonal basis--for example, for winter grazing when forage is scarce or while using their own land to grow hay for winter feed. The Taylor Grazing Act, which set up the allocation of grazing privileges through a permit system, favored ranchers who already owned nearby land, controlled a water supply, and had previously used the public range. BLM continues to give preference to the original permit holders or successive owners of their property.

These preferences were based on the theory that those who leased land on a long-term basis were expected to have a stake in better management of the federal land. Grazing allocation rules eliminated "tramp" livestock operators who owned no land but grazed their animals on the open range with no regard for long-range consequences to the land; these operators left when the forage was gone. Currently, most permit holders have one-year renewable leases. If proposed new regulations are adopted, ranchers with approved management plans will receive ten-year renewable leases; most others will receive three-year renewable leases until new management plans are developed.

Grazing permits limit the numbers and kinds of animals allowed on federal land and the season of use, requirements that are subject to change by BLM as range conditions warrant. BLM must monitor whether ranchers are complying with these and any other conditions set forth in the permit.

FAIR MARKET VALUE

The concept of charging fair market value for commodities taken from federal land has generated controversy that has swirled around BLM and its predecessors for decades. Whether and how grazing fees should reflect fair market value for the use of federal land has been the most controversial question. The relationship of fair market value to land sales, recreation, timber and mining has been debated as well.

Grazing fees were first required for use of the national resource lands as a result of the Taylor Grazing Act of 1934. (The Forest Service had initiated fees for ranges in the national forests in 1906.) Fees under the Taylor Grazing Act were to be based on the cost of administration--a cost estimated at an unrealistically low figure in order to assure low grazing fees. The estimate was set at low levels to gain support for the act among ranchers and western congressmen, but it hampered efforts to obtain adequate funding for range management for many years.

The first fee set after passage of the act was five cents per animal unit month (AUM), a formula based on a standard amount of forage required for one animal per month, taking into account the varying requirements of different animals. From the beginning, ranchers have fought all attempts to set fees at fair market value. In addition to general opposition to fees that would add to operating costs and reduce incomes, some ranchers contend that access to low-cost federal forage was reflected in a higher selling price for their ranches. New owners believe they have paid for the right to low fees, whereas BLM tried to require a fair return for the forage on the basis that grazing is a privilege rather than a guaranteed right.

After many years of controversy, the BLM and the Forest Service adopted a joint fee schedule in 1968 for implementation over a ten-year period. At the time the BLM fee was 33 cents per AUM; the new fee schedule began with a fair market value of $1.23 per AUM. Annual increments were to have taken into account the current market status and an inflationary factor. Postponements in the increase by the Secretary of Interior have delayed the date for full implementation until 1980. The current fee of $1 per AUM does not include the annual increments or inflationary factor. The average fee on private lands, where grazing conditions are usually better than on BLM land is $5.82.

What about fair market value for land, for recreation, for water? The laws that governed disposal of the federal land in the past made possible widespread private ownership at little or no cost. Most of these laws have now been repealed. One proposal now being considered by Congress would repeal all remaining disposal laws and require that any additional land suitable for disposal be sold competitively, based on an appraised market value.

Recreational use of BLM lands and other federal lands has generally been provided at less than fair market value so the public could enjoy its lands without regard to economic status or ability to pay. The Public Land Law Review Commission (PLLRC) urged that the policy be continued but suggested a general recreational fee for federal recreation areas and some additional fees for highly developed recreation sites. The general fee technique has been used (Golden Eagle Pass) but it is no longer in effect. The PLLRC also recommended that permit fees for concessions on federal lands be balanced so that reasonable fees can be charged to the public without detracting from the competitive position of enterprises on public land.

MULTIPLE USES: SOME IN CONFLICT

Much of BLM's authority for managing the resources on its land for the American people is caught in legislative limbo. Some BLM activities are authorized by single-purpose laws; executive discretion has sometimes been exercised in the absence of laws. A BLM organic act--a basic statutory authority for BLM to retain and manage its lands--could provide the basis for managing the land with overall consideration of the environmental, wildlife, forage, timber, mineral, recreation, water resources, air quality, scenic values.

BLM's land use planning program described in LAND USE LETTER No.2 is the principal tool BLM is currently using to balance and resolve conflicts that inevitably arise among the varied uses.

PRESENT RANGE CONDITION ON NATIONAL RESOURCE LANDS[1]

State	Excellent Acres[2]	Excellent Percent[3]	Good Acres	Good Percent	Fair Acres	Fair Percent	Poor Acres	Poor Percent	Bad Acres	Bad Percent
Arizona	119	1	834	7	4,410	37	6,197	52	358	3
California	100	1	1,100	11	5,000	50	3,200	32	600	6
Colorado	84	1	924	11	4,620	55	2,436	29	336	4
Idaho	331	3	2,647	24	5,735	52	2,095	19	220	2
Montana	265	3	4,451	48	3,866	42	549	6	134	1
Nevada	702	1	6,089	13	25,525	55	12,645	27	1,873	4
New Mexico	221	2	2,048	15	7,003	52	3,589	26	699	5
Oregon	1,128	8	2,539	18	6,771	48	2,962	21	705	5
Utah	---	-	985	5	10,047	51	7,092	36	1,576	8
Wyoming	1,234	7	2,075	12	8,979	25	4,543	25	1,055	6
TOTAL	4,184	2	23,692	15	81,956	50	45,308	28	7,556	5

1 Source: Range Condition Report, Bureau of Land Management, based on December 1974 conditions
2 Acres in 1,000s
3 Percent of total BLM rangelands in respective state

Dominant Use For Grazing?

One of the first points of conflict arises from the proprietary stance of the livestock industry toward the BLM grazing land. The industry welcomed a PLLRC recommendation for designating a dominant (or priority) use for certain areas and allowing secondary (or additional) uses only to the extent that they are compatible. Conservation groups vigorously oppose this shift, contending that environmental values would be slighted in favor of dominant economic interests.

BLM has interpreted the Taylor Grazing Act (still in effect) and the Classification and Multiple Use Act (now expired) as authorizing it to manage lands under the multiple use concept, with no one use dominating another. The livestock industry would like it better if BLM gave priority to grazing. They bolster their case by arguing that food produced from the range forage is important for meeting the food needs of the United States and the world and that ranchers know best how to maintain grazing productivity.

Recreation

Just as miners, homesteaders and ranchers rushed on horseback and covered wagon to develop and settle the West in the nineteenth century, a new wave of westward-bound Americans travelling in automobile and camper have entered the federal lands in the twentieth. In the past decade alone, recreation use on BLM lands has increased sixfold. Hunting, fishing, camping, picnicking, hiking, floating down rivers, driving vehicles, observing nature--the list of the ways that Americans are using their wide open spaces is a long one. Opportunities abound for finding solitude or visiting the spectacular scenery of deserts, canyons, mountains and unique geological formations. BLM lands have thousands of sites containing archaeological, anthropological and other historic remains: ghost towns, Indian burial sites, buried communities of earlier civilizations, traces of westward moving pioneers.

BLM has designated 28 individual sites covering nearly 3 million acres for recreational use (although still available for other uses if compatible); development on these lands is minimal. In addition, the public is allowed access on most other BLM lands, except where special protective closures are in effect. However, where BLM land is surrounded by privately-owned land, public access is at the mercy of the private land owner unless a public road exists or BLM acquires the right-of-way. Since BLM lacks funds to buy access rights to all tracts, public access to many of the intermingled BLM lands is, in effect, prevented.

BLM land that is leased for grazing and contains roads is in another status, however. Although a rancher may have proprietary feeling about the land he leases, he does not own it and must therefore allow public access--even though some visitors are greeted by no trespassing signs or gates across the road or even a shotgun when they try to enter. A false sense of ownership is not the only motive for ranchers' cool reception. Some vacationers treat the land carelessly, giving ranchers considerable warrant for their feeling that they are better custodians.

The visiting public gives BLM some king-size headaches: litter, vandalism, environmental damage by off-road vehicles on desert lands, careless destruction of archaeological and anthropological sites, sometimes just the pressure of sheer numbers of people. BLM lacks the strong medicine of funds, manpower and enforcement power to cure its 1970s-style land-rush ills.

CALIFORNIA DESERT--AN EXAMPLE

The California desert exemplifies many of these problems. Because the desert lies within easy reach of the large population areas of southern California it has attracted a major share of BLM land visitors. In some places, the land surface is so fragile that a single track down a slope can start a channel for ensuing erosion. Yet last year over 3.5 million vehicles were driven over the deserts of southern California, southern Nevada, western Arizona and central Utah. BLM has placed top priority on regulating off-road vehicle use by closing certain areas while allowing vehicles in less vulnerable areas. Conservationists decry any grants of permission to use the desert for off-road vehicular events, while the vehicle owners believe they, too, have a right to enjoy use of public lands.

Destruction of archaeological and anthropological remains--many of them found in the California desert--constitute another problem on BLM lands. The family hunting arrowheads may put a shovel in the sand and accidentally destroy the story of a buried civilization. More deliberate and systematic destruction has been wrought by pot-hunters who have discovered a lucrative market for Indian artifacts. Some looters have even brought bulldozers. Recently intensified pressure to mine BLM lands for fossil fuels and other minerals poses an additional threat to archaelogical values in the desert and on other BLM land as well.

ENFORCEMENT

Although BLM lacks statutory authority to enforce any of its regulations, a new ranger program using education and persuasion to seek compliance has been initiated. A force of 29 rangers, a fraction of the number needed, is stationed in the four desert states. Although education and persuasion have proved helpful in protecting BLM lands in the limited areas where rangers are stationed, legal authority to enforce rules and regulations is necessary.

The recently passed Sikes Act (PL 93-452) provides BLM with its first enforcement powers for controlling the off-road vehicles as a threat to wildlife. General enforcement power, including armed personnel with search and seizure authority, is in a proposed BLM organic act now pending before Congress. Its proponents view this proposed authority as a necessary and direct method of enforcement that would apply to other rules as well as to off-road vehicles.

Wilderness

The national resource lands--the wide open spaces of the West--are filled with natural roadless areas. One proposed component for a BLM organic act would set up machinery for reviewing BLM lands to determine whether some areas are suitable for the congressionally designated wilderness status. Such a designation prohibits most forms of development. Currently, the National Wilderness Preservation System is located almost entirely within the national forests.

BLM has its own system of administratively designating "primitive" areas subject to the same restrictions as the National Wilderness System. The BLM "primitive" areas are withdrawn immediately from mineral exploration, however, whereas the Wilderness Act allows prospecting until 1984. Seven primitive areas of BLM land covering 164,000 acres in Arizona, Colorado, Montana and Utah have been designated; thirty-one additional areas totalling 1.6 million acres are likely to be designated soon, and another 128 areas on nearly four million acres are under study by the BLM. Until a final decision is made, the lands under study are withdrawn temporarily from prospecting.

The difference between a BLM primitive area and a wilderness area is in the source and force of the designation. Wilderness designation by Congress constitutes a final decision. BLM primitive areas are designated at the discretion of the Secretary of Interior and are subject to change. Those who favor designation of BLM land as part of the National Wilderness Preservation System believe it will be more permanently protected through congressional action.

One proposed feature for a BLM organic act would direct that all roadless areas greater than 5,000 acres be studied for inclusion in the wilderness system. BLM has asked that only areas greater than 50,000 acres be studied because there are so many areas 5,000 acres or greater that the bureau would be overwhelmed by the study task. Conservationists contend that the 50,000-acre minimum size would ultimately limit additions to the wilderness system because decisions to remove such large areas from mining or other uses would be unlikely.

Wild Horses, Burros and Other Wildlife

Public concern about the inhumane treatment and the possible extinction of free-roaming wild horses and burros resulted in passage of the Wild Horses and Burros Protection Act (PL 92-195) in 1971. Protective efforts have been so successful that proliferation of the wild horses and burros is causing a serious problem on the western ranges. Currently, there are an estimated 57,000 wild horses and burros; this number will double in four years unless controls are imposed.

Added numbers of the horses and burros grazing on the BLM rangelands are contributing to the deterioration of the range conditions and competing with the domestic livestock and other wildlife for the forage. Some wildlife experts fear that horses and burros will become weakened and die from lack of forage unless their numbers are controlled. Although the Wild Horses and Burros Act authorizes controls, it denies certain methods BLM believes are needed to be effective, such as the right to give or sell the wild animals to individuals and the right to round them up (under supervision to ensure humane treatment) with motorized vehicles or aircraft instead of on horseback. Further legislation would be necessary to provide these methods and is likely to stir controversy. The environment for other animals is affected by the generally declining range conditions. A recent estimate by BLM shows that only one-half of its acreage has habitat for big game that is in satisfactory condition. Estimates show that habitat conditions are declining on a third of the BLM's land. In the absence of optimum habitat conditions, the fate of some of the thirty-three endangered species found on BLM land may be in jeopardy.

SUGGESTED READING

Bureau of Land Management, U.S. Department of Interior, Range Condition Report, January 1975. Free. Washington, D.C. 20240. Analysis of current range conditions and trends with proposals for changes in range management.

Clawson, Marion. Bureau of Land Management.1971, Preager Publishers, 111 Fourth Avenue, New York, NY 10003. $8.50 hardcover. Comprehensive history and description of structure and activities of BLM.

Joint Federal-State Land Use Planning Commission for Alaska. Land Use Planning:Alaska's Land. 1974. Free. Order from the Commission. Suite 400, 733 Fourth Avenue, Anchorage, Alaska 99501.

The 94th Congress is considering several proposals for a National Resource Lands Management Act (also called BLM organic act) dealing with the basic policies and management authority for BLM. Bills under consideration by the Senate and House Interior and Insular Affairs Committees would retain and manage most national resource lands under multiple use-sustained yield principles and provide procedures for land use planning and acquisition, obtaining fair market value for land and resource sales, assuring public participation and enforcing BLM regulations. At this writing (April 1975) major bills include S.507 introduced by Senators Haskell (D-CO),Jackson (D-WA) and Metcalf (D-MT); H.R.5622 introduced by Representative Seiberling (D-OH); and S.1292 and H.R. 5224 introduced for the Administration. An additional proposal, Subcommittee Print No.1, being considered by the House Interior Committee, also contains special sections dealing with range management. A free copy of bills and the hearing record, when printed, can be obtained from your congressman or woman.

Coal From The Range

BLM's rangeland, particularly in Wyoming, Montana, Utah and New Mexico, has another commodity resource in demand besides forage: coal. Known deposits and the potential of undiscovered deposits of coal or other energy sources are expected to generate continuing pressure on these lands as part of the effort to alleviate the energy crisis. Current estimates by BLM are that 181,900 acres of rangeland will be taken out of productive range use during the next several years to permit strip mining of coal or extracting other minerals. BLM anticipates that only a portion of this acreage will be taken out of productive range use at any one time and some lands will be reclaimed for future range use.

Suggestions that power generating plants be sited near western coal deposits have implications for rangeland as well; the large amounts of water required by generating plants will compete with range for already scarce water supplies for domestic, industrial and irrigation uses.

ALASKAN LAND: USES FOR THE FUTURE?

Unlike BLM lands in the lower 48 states where the land has been used for commercial purposes for many years, the Alaskan land is largely untouched. Decisions are now being made, however, which will affect future use of Alaska's undeveloped land.

The large amount of federally-owned land in Alaska (over 90 percent of the state) presents unique and complex problems in land use planning and disposal policies. Most of this federal land is currently administered by BLM (about 300 million acres, or 80 percent of Alaska's 375 million acres) and constitutes more than half of the agency's total acreage.

The Alaska Statehood Act of 1958 and the Alaska Native Claims Settlement Act of 1971 provide mechanisms for redistributing large acreages to native Alaskans and to state ownership. The land is important to the Alaskan economy and to all Americans because of its rich potential in hydroelectric and geothermal power, oil, timber and other resources.

A Joint Federal-State Land Use Planning Commission was set up under the Native Claims Act to make recommendations for designating certain federal areas for special management as national parks, forests, wildlife refuges and wild and scenic rivers; to work with the state, native groups, and federal agencies to minimize conflicts on selections; and to develop adequate data relating to natural resources and socio-economic factors. The Secretary of Interior appointed five of the ten members; the governor of Alaska the remainder, one of whom is an Alaskan native.

State Selections

Under the Statehood Act, 104 million acres of the federally-owned land are to be selected by the state government by 1984. To date the land selections by the Alaskan government are well underway and include large tracts on the oil-rich north slope. (The state will get 100 percent of the oil and mineral revenue collected on its own land and 88.2 percent of that collected by the federal government from land remaining in federal ownership.

Native Claims

The Native Claims Act provides for selection of 40 million acres by Alaskan natives, and financial payments to them to extinguish their aboriginal claims to the balance of Alaskan land. It also requires that Congress consider designating 80 million acres as national parks, national wildlife refuges, national forests and wild and scenic rivers. The remainder --probably 80 to 100 million acres-- will remain under multiple use management by BLM. BLM may also be designated to administer wild and scenic river areas.

Native Alaskans have begun their selection of 40 million acres from 106 million acres set aside by the Secretary of Interior. They will also receive nearly $1 billion over a 20-year period, half in direct federal payment and half from oil royalties. Village and regional corporations are being set up to manage their assets. Deadlines of 1974 for village selection and 1975 for regional selections were established by the act.

Parks, Wilflife Refuges Forests and Rivers

The commission held extensive hearings on the designation of federal lands for specific public purposes. It made recommendations to the Secretary of Interior, who in turn has recommended to Congress a package of 21 national parks, wildlife refuges and national forests; three major additions to existing national parks; four wild and scenic rivers. Congress has until 1978 to act on the secretary's recommendations (which encompass 83.5 million acres)--or any others.

Conservation groups hope to see most of this land dedicated to national parks or wildlife refuges, classifications that prohibit mining and oil development, rather than national forests, which are operated under multiple use management. Business groups and state officials oppose the single use designation because they claim that resource development is necessary to sustain the state of Alaska and its economy.

Although BLM's role in Alaska will be reduced after final selections are made, it still will have jurisdiction over about a third of Alaskan land.

CONCLUSION

Once considered left-over lands, national resource lands were long neglected, with resultant deterioration that still has not been halted. The neglect must be attributed in part to a public that is largely unaware of these lands and their vast resources. In recent decades, however, growing recognition of the values of these lands and their finite quality has focused attention on public land policies.

Current plans to revise grazing procedures and to use these lands more intensively for energy production makes it more important than ever for the public to concern itself with land and resource management policies. In addition, some are suggesting greater dependence on grass-fed meat to divert grain from feed lots to human consumption. Should U.S. funds be invested to improve range conditions so the federal range can provide more forage? Should strip mining be allowed to cut into range porductivity? How much coal mining should be allowed and under what requirements? Should power generating plants be located near western coal?

These are only a few of the many questions that surface in studying the issues about the national resource lands and its manager, the BLM.

There are ways you can become involved. One is to find out what proposals are being considered by Congress for a BLM organic act (see LAND USE LETTER No. 2), the statutory authority that many believe is important for effective management of these lands. Another, for those living in the western states, is to become acquainted with BLM land use planning activities, advisory boards, grazing regulations by contacting the state and district offices of the BLM (see LAND USE LETTER No. 2).

LAND USE LETTER is supported in part by the U.S. Office of Education, Department of Health, Education and Welfare. However, the opinions expressed herein do not necessarily reflect the position or policy of the U.S. Office of Education, and no official endorsement by the U.S. Office of Education should be inferred.

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Pub. #588, 25¢ for handling and delivery.

land use letter

What's New in Land Use Literature

JULY 1975

What's new for citizens and public interest groups working on land use issues? In recent months significant studies, reports and books covering a number of the issues of the day have been published. This issue of LAND USE LETTER contains a sampling of these new publications, with brief reviews of each and information on how to order. Are you interested in state land use legislation? Zoning to help low- and middle-income families obtain housing? Measuring the impact of proposed new development plans? Ways to stimulate or control development? Planning in natural hazard areas? Growth (or no-growth) policies? National forest policies? Read on to see which of these new publications might help you in your community education efforts.

LAND USE--THE STATE OF THE ART

"Any programs toward better land use must...be measured not in terms of the sophistication of legal devices or the complexity of approval mechanisms developed by different levels of government. What is important is how such controls and stimulants can be used to influence the private sector in its decisions about how to use the land." So concludes the opening chapter of the Council on Environmental Quality's (CEQ) 1974 annual report--a roundup of current knowledge about a number of land use issues.

In the land use section of the report, the Council reviews the environmental, social and economic effects of land development in metropolitan areas. Stimulants to land development, especially those deriving from federal actions (taxes, incentives for pollution regulations, investment and energy development) are analyzed. And the report includes a run-down--with pros and cons--of development controls available to local governments such as zoning, review of development plans, development rights, land banking, growth policies, preferential assessments and open space.

By calling attention to long-term implications and showing some of the ways to stimulate or control development, this overview can help citizens deal with land use decisions. The full report also includes sections on Perspectives on the Environment, Environmental Conditions and Trends, National Environmental Policy Act, Global Environment, and CEQ Studies.

The Soil Conservation Society of America at its 1974 Annual Convention looked at stimulants and controls, too, but under the theme: Land Use: Persuasion or Regulation? Speakers considered land use planning from the viewpoint of soil, plant, water and air resources, waste management, fish and wildlife and outdoor recreation. The full convention proceedings provide answers to the issue of persuasion vs regulation from many disciplines and from many points of view. One provacative session came up with four answers--persuasion, regulation, the best of both alternatives, and laissez-faire.

HOW TO ORDER:

Council on Environmental Quality. ENVIRONMENTAL QUALITY: THE FIFTH ANNUAL REPORT OF THE COUNCIL ON ENVIRONMENTAL QUALITY. 1974. 597 pp. (paper) Free from CEQ while supplies last, 722 Jackson Place, N.W., Washington, D.C. 20006; $5.20 from Superintendent of Documents, US Government Printing Office (USGPO), Washington, D.C. 20402. Also available is the excerpted reprint from the REPORT, entitled LAND USE. 92 pp. (paper) Free from CEQ while supplies last; $1.20 from USGPO.

Soil Conservation Society of America (SCSA). LAND USE: PERSUASION OR REGULATION? PROCEEDINGS OF 29TH ANNUAL CONVENTION. 1974. 207 pp. (paper) $6 from SCSA, 7515 Northeast Ankeny Road, Ankeny, Iowa 50021.

DEVELOPMENT AND SPRAWL: MEASURING THE COST

No magic formula exists for making land use decisions. Such a formula would end one of local government's most vexing problems: will the proposed use benefit or detract from the community--in cost, social and environmental impact? Without any accurate measure of these effects, the result is often sprawl or haphazard development.

Two recent studies attempt to offer help for planners, local elected officials and citizen groups.

The Land Use Center of the Urban Institute suggests a series of measures and procedures for determining impacts of new development from a variety of perspectives. Both public interest groups and decision-makers will find this "how-to" publication, entitled MEASURING THE IMPACTS

OF LAND DEVELOPMENT, useful in anticipating impacts from development proposals. The effects on the local economy, natural environment, aesthetic and cultural values, public and private services, housing, social conditions and various demographic and geographic aspects are discussed.

Three federal agencies--Council on Environmental Quality, Department of Housing and Urban Development and Environmental Protection Agency--sponsored another important study that analyzes the impact of low density haphazard development compared with compact planned development. THE COSTS OF SPRAWL shows that as much as 50 percent savings in land, construction, energy, pollution and municipal operating costs can be realized from high density planned communities over typical suburban sprawl. Costs and effects analyzed include residential, open space and recreational dimensions; utilities, schools, roads, other public facilities and services; air, water and noise pollution; wildlife; water and energy consumption; commuting time and other factors.

HOW TO ORDER:

Schaeman, Philip S. and Muller, Thomas. MEASURING THE IMPACTS OF LAND DEVELOPMENT. 1974. 92 pp. (paper) $2.95 from Urban Institute, 2100 M Street, N.W., Washington, D.C. 20037.

Real Estate Research Corporation for Council on Environmental Quality (CEQ); Office of Policy Development and Research, Department of Housing and Urban Development; Office of Planning and Management, Environmental Protection Agency. THE COSTS OF SPRAWL. 1974. Executive Summary. 15 pp. (paper) 55¢. Detailed Cost Analysis. 278 pp. (paper) $2.50. Literature Review and Bibliography. 350 pp. (paper) $3.25 from Superintendent of Documents, US Government Printing Office, Washington, D.C. 20402. Copies of the Executive Summary and a limited number of the backup studies will be available free from CEQ, 722 Jackson Place, N.W., Washington, D.C. 20006.

NATURAL HAZARDS:PRIORITY LAND USE PROBLEM

Natural hazards--hurricanes, floods, landslides, coastal erosion, earthquakes--have always been major land use problems. For years, they have resulted in loss of life and property and in huge expenditures for disaster relief, but only recently has land use management been seen as a tool to deal with the recurring social and economic costs.

Identifying natural hazard areas and regulating the kinds of development appropriate within them constitute an important element in state and local land use plans. Lacking, however, has been information for predicting hazards and establishing ways to mitigate their destructive effects.

A study by the University of Colorado's Institute of Behavioral Science (supported by the National Science Foundation) examines land use management in relation to natural hazards and reviews alternative approaches for local, state and federal governments. A summary of the study has been printed by the Senate Committee on Interior and Insular Affairs because of its usefulness to committee members concerned with land use legislation and to state and local governments and interested citizens in preparing land use plans.

HOW TO ORDER:

US Congress. Senate. Committee on Interior and Insular Affairs. LAND USE MANAGEMENT AND REGULATION IN HAZARDOUS AREAS, by Earl J. Baker and Joe Gordon McPhee for Institute of Behavioral Science, University of Colorado. Committee Print. US Government Printing Office. Washington, D.C., 20402. 1975.129 pp. (paper) Free from your congressman or woman while supplies last.

REEMERGING ROLE OF THE STATE IN LAND USE

States must take the lead in bringing land use policy into harmony with current economic and environmental realities and with changing public attitudes, says the Council of State Governments. A Council Task Force has analyzed some of the problem areas states are likely to encounter in recapturing the planning and regulatory procedures which have been delegated to local governments. The group, in the report entitled LAND--STATE ALTERNATIVES FOR PLANNING AND MANAGEMENT, maintains that present procedures are not responsive to the critical problems of the times.

"Some of the characteristics and attributes of land discourage change. Land has physical permanence. It attracts both vested interest and emotional attachment. It is surrounded by a complex legal structure. It is a basis of both private wealth and public tax revenue. It is a fundamental, if frequently overlooked, part of every human activity." The study says all these factors must be considered in redefining the proper roles of both states and local governments. It notes that the local role should be modified by state government, not necessarily diminished.

The study was conducted by the Council's Task Force on Natural Resources and Land Use Information and Technology composed of legislators, academicians, state administrators and representatives from private citizen organizations.

The final report summarizes six individual reports on each of the problem areas: Intergovernmental Relations and State Land Use Planning; Data Needs and Resources; Organization, Management and Financing; Designation of Areas of Critical Environmental Concern; Issues and Recommendations--State Critical Areas Programs; Manpower Needs and Public Involvement.

HOW TO ORDER:

Council of State Governments (CSG). LAND--STATE ALTERNATIVES FOR PLANNING AND MANAGEMENT. 1975. 100 pp. (paper) $4.(Bulk orders: 5-25 copies--20% off; 25-50 copies--30% off; 50 or more copies--50% off) Order from CSG, P.O. Box 11910, Iron Works Pike, Lexington, Kentucky 40511. Each of the individual reports (listed above) is available from the same address at $2 each.

THE FLORIDA EXPERIENCE LESSONS FOR OTHERS AS WELL?

The fragile peninsular environment of Florida has been so threatened by growth and development pressures that new land use policies are needed if the citizens are to have the kind of future they want for their state. So says Luther J. Carter in a new book for Resources for the Future. The land, water and growth policies advocated by the author will be of interest to citizens in other areas facing similar problems.

Carter, an environmental and resource writer for Science magazine, proposes a strong policy for comprehensive state planning and zoning, supported by standards, guidelines and goals for conservation and development; reorganization of both state and local governments, including tax reform and budgetary changes, to reinforce planning efforts; and emphasis on opportunities for meaningful citizen participation in planning.

HOW TO ORDER:

Carter, Luther J. for Resources for the Future, Inc. THE FLORIDA EXPERIENCE. 1974. 355 pp. (cloth) $15 from Johns Hopkins University Press, Baltimore, Maryland 21218.

NONGROWTH--FACING THE ISSUE

Controlled growth, timed growth and managed growth may be more accurate terms than the word "nongrowth," say authors Earl Finkler and David L. Peterson, but they have chosen to face up to the issue of growth vs nongrowth directly by analyzing the power of communities to slow the growth rate. Their book, NONGROWTH PLANNING STRATEGIES, has been published in cooperation with the Center for Growth Alternatives.

The authors recount changing attitudes in many local communities toward ever-spiraling growth and take a look at the economic effects of growth control. One less obvious problem nongrowth advocates are encountering, the authors say, is a planning profession that has been trained to plan for change--or growth. They suggest a number of strategies and techniques to achieve nongrowth. Most of the book relates to broad, long-term reasons and methods for nongrowth, but a final chapter, "Guerilla Planning: How to Stop Growth in Ten Days," suggests a citizen action program to involve a neighborhood or community in decisions concerning potential growth and change.

A related volume, entitled LOCAL GROWTH MANAGEMENT POLICY: A LEGAL PRIMER, published by Potomac Institute, looks at local growth controls and their legal implications from the viewpoint of the possible exclusionary effect on low-income persons and racial minorities. The conclusion: planning for growth to accomodate a wide range of income groups can enhance the legal ability of a local government to regulate the character of growth.

HOW TO ORDER:

Finkler, Earl and Peterson, David L. NONGROWTH PLANNING STRATEGIES. 1974. 116 pp. (paper) $3.95 postpaid. Praeger Publishers, New York. Order from the Center for Growth Alternatives, 1785 Massachusetts Ave. N.W., Washington, D.C. 20036

Falk, David and Franklin, Herbert M. for Potomac Institute (PI). LOCAL GROWTH MANAGEMENT POLICY: A LEGAL PRIMER. 1975. 41 pp. (paper) $1 single copy; quantity prices on request. Order from PI, Inc., 1501 18th St., N.W., Washington, D.C. 20036.

INCLUSIONARY ZONING: A POSITIVE APPROACH

Inclusionary zoning seeks ways to ensure housing for low- and moderate-income families in a move away from past exclusionary practices. The Potomac Institute seeks this positive approach in a new guide for policy-makers on inclusionary land use programs entitled IN-ZONING.

The authors suggest that inclusionary programs will serve the public interest by providing better access to jobs, higher quality schooling, social heterogeneity and improved inner cities.

To be effective, an inclusionary land use program should incorporate three essential procedures to assure that 1) sufficient land is available, 2) land use and building requirements do not price housing beyond the reach of low- and moderate-income families, and 3) public policy assures acceptance of a reasonable amount of housing for low- and moderate-income families.

Ways to achieve these goals receive detailed treatment. Such zoning techniques as variances, special permits, conditional zoning and contract zoning, floating zones, site specific rezonings, incentive zoning and planned unit development are discussed in this publication.

The authors devote special attention to two concepts that hold potential for their housing goals--regional housing allocation and land banking. Regional housing allocation, or "fair share" planning, identifies areas appropriate for establishing low- and moderate-income housing and suggests appropriate numbers. Land banking, although it presents certain problems, allows a locality to control the location, timing, cost and nature of the development through ownership rather than regulation of the land.

A closely related volume contains the entire ma-

jority and concurring opinions of the New Jersey Supreme Court in a case that the Potomac Institute sees as a landmark for use of zoning to achieve housing for low- and moderate-income families. The court ruled that housing is one of the most basic prerequisites for the "general health, safety and welfare"--the goals that zoning decisions are obligated to promote in the first place. The court set a standard requiring a locality to meet its affirmative regional obligation through its land use regulations to permit housing for all classes of people, "especially in the low- and moderate-income category." The authors conclude that the decision will influence courts in other states, the federal judicial system and state legislatures.

HOW TO ORDER:

Falk, David, Franklin, Herbert M, and Levin, Arthur J. for Potomac Institute (PI). IN-ZONING. 1975. 212 pp. (paper) $3.50 single copy; quantity prices on request from PI, Inc., 1501 18th Street, N.W., Washington, D.C. 20036.

New Jersey Supreme Court Mount Laurel Decision. ZONING "FOR THE WELFARE OF PEOPLE." 1975. 43 pp. (paper) $1.50 from Potomac Institute, Inc., 1501 18th Street, N.W., Washington, D.C. 20036.

NEW FOREST POLICY NEEDED

Everyone depends upon the 754 million acres of US forestland (public and private) in some way--for wood products we use in our daily lives and for recreation, watershed protection, wildlife cover, wilderness preservation. In a new book, Dr. Marion Clawson, Acting President of Resources for the Future, urges a strong new policy for guiding the future of this major natural resource.

Such a policy must take into account issues of importance to all Americans--issues condensed in the book's title, FORESTS FOR WHOM AND FOR WHAT? Dr. Clawson proposes yardsticks to measure the effectiveness of forest policy: physical and biological feasibility, economic efficiency, balance of costs and benefits among forest users, social and cultural acceptability of various forest uses and administrative practibility.

Applying his own criteria and as a result of his experience as a member of the President's Panel on Timber and the Environment and former director of the Department of Interior's Bureau of Land Management, Dr. Clawson raises a number of issues confronting the nation and ends with some provocative conclusions. The issues concerning how forests should be used and for whose benefit will become increasingly crucial, he believes, because the nation's demand for wood, a renewable commodity with a wide variety of uses, will grow as nonrenewable resources disappear.

HOW TO ORDER:

Clawson, Marion for Resources for the Future. FORESTS FOR WHOM AND FOR WHAT? 1975. 175 pp.(paper) $3.95 from Johns Hopkins University Press, Baltimore, Maryland 21218.

TRANSFERRING DEVELOPMENT RIGHTS

Is transfer of development rights the answer to the quest by citizens, public officials and planners for new alternatives in land-assembly, open-space preservation, and community management? This concept, which has its roots in the idea of cluster development (where a developer can increase density of development and open space at the same time), is being examined in many communities. The Urban Land Institute devotes its January 1975 issue of URBAN LAND to the subject of transfer of development rights (TDR)--explaining what it is, how to use it, questions it raises.

"Due in part to rising cost of open space acquisition, and to legal/fiscal implications of the police power and 'takings' issues, municipalities are looking for ways to allow land-market mechanisms to remain fluid and, at the same time, plan for low-cost, open space preservation and/or protection of environmentally sensitive or historically interesting parcels of land. The TDR concept, on paper, appears to serve these ends," say authors Dallas Miner and Frank Schnidman. Whether the idea will succeed in the way its proponents hope remains to be seen, they add.

Of particular help to citizens trying to understand the concept is a simple example of TDR in operation--in a fictitious planning district. Various articles in this issue of URBAN LAND describe TDRs in general and raise questions that a community must answer before enacting a TDR ordinance. The issue also contains a proposal to integrate TDR into a total growth management program and an illustration of how TDR can be used as an alternative to zoning. A synopsis of a book explaining how TDR can be a tool for historic preservation and a bibliography are included.

HOW TO ORDER:

Urban Land Institute. "Transfer of Development Rights." URBAN LAND. January 1975, entire issue. $2 per copy. ULI-Urban Land Institute, 1200 18th Street, N.W. Washington, D.C. 20036.

LAND USE LETTER is supported in part by the US Office of Education, Department of Health, Education and Welfare. However, the opinions expressed herein do not necessarily reflect the position or policy of the US Office of Education, and no official endorsement by the US Office of Education should be inferred.

ORDER FROM: League of Women Voters of the United States, 1730 M Street, N.W., Washington, D.C. 20036 Pub. #557, 25¢ for handling and delivery.

land use letter

Citizen Perspectives on Public Lands

JULY 1975

How do citizens perceive federal and state stewardship of public lands?

Some of the answers are to be found in reports from 34 state land use committees of the League of Women Voters in response to a request from the national Land Use Committee that they participate in research on public lands. Information and perspective from the state Leagues, received during the spring of 1975, have been used to help pinpoint the significant issues. Respondents compiled statistics about federal and state ownership patterns and about energy, mineral, timber and grazing resources and development on public lands. They also gave their opinion of the way federal and state governments are managing the public land and resources in their states.

Their comments were directed at a considerable acreage. The federal government owns approximately 725 million acres--or about one-third of the nation's land area. Most is in the West, but significant national forest and military land is in the East. Administrators include the Department of the Interior's Bureau of Land Management, National Park Service, Fish and Wildlife Service, Bureau of Reclamation and Bureau of Indian Affairs; Department of Agriculture's Forest Service; Department of Defense, including Army Corps of Engineers, and others with small holdings.

State-owned land totals approximately 114 million acres, or about five percent of the US land area, mostly acquired from federal holdings.

The Leagues that responded to the survey are concerned about abuses that public lands have suffered--in the West from overgrazing and logging and in the East from overuse of scarce recreation areas as well as from logging. League members (both East and West) worry about problems from mineral development on federal lands. Leagues in water-short western states are especially conscious of water supply and quality.

Closely related to the concern for the land and its resources is the need seen by League researchers for improvements in administrative procedures--better coordination of agencies that administer adjoining lands, better ways to resolve the conflicts over how land should be used, more funds for land management and purchase. Of special League interest are ways the public can participate in land use decisions.

HOW THE LAND IS USED--OR ABUSED

TIMBER

Many of the problems relating to use of forestlands are summed up by the concerns of League members in Washington where federal and state forestlands constitute a major economic resource. The Washington report describes clearcutting and subsequent reforestation...building logging roads through pristine forests...logging too close to streams with silt and slash clogging waters...and using pesticides.

In California where 750,000 acres of redwood forestlands have been lost to agrarian and urban uses, the League reporter describes efforts to preserve some of these native stands and to protect the nearby watersheds that have been cleared of trees or overgrazed. The Colorado report notes silting of streams in that state after clearcutting of timber. Clearcutting and the need for stricter management practices are also a concern in such far-apart states as Virginia and Montana. In Idaho, the committee notes variations in control of logging among 16 national forests.

Maine Leaguers have been watching efforts of the state to regain full rights to 400,000 acres of state land where timber industries have been enjoying the right to harvest timber for the same few cents per acre they paid for leases in the 18th century; these lands may soon be managed for multiple use--for recreation and research as well as timber harvest "with the state reaping full monetary benefit."

GRAZING

The New Mexico League speaks of overgrazing, a problem common to public lands in many of the western states. Overgrazing, or allowing livestock to consume more forage than nature can regenerate, causes "denuded and washed out areas, run-off into the arroyos and gully formations which accommodate seasonal storms." Montana's Claudia Meloy notes that ineffective management has resulted in such abuses.

MINING

Leagues, especially those in the mineral-rich West and in coastal states likely to be affected by offshore drilling, are concerned about laws and regulations for extracting minerals from federal lands.

The New Mexico League respondent wonders what will happen to large sections of New Mexico "if energy industries take all the latitude the law allows." Controls over leasing fossil fuels are needed to eliminate price speculation and to require reclamation.

This League is joined by others, including Montana, Arizona and Idaho, in identifying problems resulting from the Mineral Leasing Act of 1920, covering fossil fuels, and the General Mining Law of 1872, covering most other minerals on federal lands. The Montana report states that the federal government does not have "sufficient regulatory powers and that administrative

procedures are antiquated." It is the 1872 law, which allows miners to prospect and extract minerals from federal lands with little control, that causes trouble in Arizona. For example, writes the Arizona respondent, "a large area of the Santa Rita Mountains has been stripped, visible from a great distance. The Forest Service has been unable to control this."

Colorado's Virginia Bradfield raises questions about a wide range of off-site impacts from mining--both the socio-economic effects, such as demand for housing, schools, water and sewer services, and the environmental effects, such as air and water pollution, "to say nothing of wildlife."

Holly O'Konski reports that California's state offshore drilling standards ("toughest in the world") have prevented any significant oil spills on state leases in over 35 years of operations and 1,300 wells drilled. These words and the Santa Barbara LWV's case story of ongoing efforts to strengthen federal standards are of interest to citizens on the eastern seaboard who see federal leasing on submerged lands of the Outer Continental Shelf in their future.

WATER

The competition for water in the West, where most supplies originate on federal land, brings a multitude of problems. Watershed management in Arizona, for instance, may result in elimination of "'useless' vegetation...so it won't gobble up water needed desperately by farms in the valleys," says that state's reporter. Some 30 percent of the vegetation may be cleared from selected US Forest Service holdings, she adds.

The New Mexico League says its state needs a water plan to provide essential information about all water resources and create mechanisms for assigning available supplies to the best use. "We are concerned that the proposed coal gasification process is a consumptive use of water, which cumulatively could be disastrous to other uses of the limited amount of water," says the New Mexico report. The Colorado LWV also expresses fear that water supplies may be depleted by proposed mineral development.

New industry is competing with agriculture for water supplies in eastern Montana. Both the Bureau of Reclamation and Army Corps of Engineers maintain reservoirs there and are marketing industrial water, the respondent writes. In Kansas, the problem is that as many as 500,000 acres of agricultural land may be lost, largely because of new reservoirs planned by 1990, notes Constance Nunnally.

RECREATION

The western states average 13 acres of public (federal, state, local) land per resident available for recreational use; in the rest of the country the average is less than one acre. This statistic tells why the cry in the East is for more public recreation land to prevent the abuses resulting from overuse of existing recreational land, while in the West the concern is to protect the ambience of certain popular recreation areas (e.g., Grand Canyon) visited by Americans from all over the United States.

From Connecticut, from Delaware, from North and South Carolina, from Illinois came the same reply: not enough public land! Anne Sayigh of Connecticut notes that of some 200 miles of shoreline, the state owns only five. Illinois' Maxine Hansen says less than 2 percent of the state is in federal holding and less than 1 percent in state ownership.

In Maine the problem is overuse of Acadia National Park; in New Hampshire, the White Mountain National Forest. Of the latter, the LWV notes competition for use by cross-country skiers, hikers, snow-mobiles and other offroad vehicles. In New Jersey, where urban encroachment is seen as a problem on both federal and state land, Helen Brown cites overuse and vandalism.

In Virginia, the crush of too many tourists includes some who fail to abide by park rules, resulting in such problems as poaching and dune destruction. At the other side of the country, the Washington State Land Use Committee reports that daily quotas of backpackers have been set in some fragile areas in the state that have suffered from overuse. "Skiing areas on federal land have insufficient parking, and waits for towlifts can take a half hour or more." Should the US Forest Service open more land for recreation? It would take land from the logging industry, a major economic factor in the state, the committee reports.

Leagues in Florida, Massachusetts, Virginia, Hawaii, New Jersey and New York are among those who see possibilities of using non-essential military land to augment public recreational areas.

HOW PUBLIC LANDS ARE MANAGED

PROBLEMS AMONG NEIGHBORS

The checkerboard layout of original land grants and the intermingled status of many private, state and federal holdings is seen by many Leagues as a source of administrative headaches.

The Montana League reports on some of the problems that can result from mixed public-private land ownership: difficulty in gaining recreational access to federal land surrounded by private land, activities on private land that upset management of adjoining federal land, jurisdictional problems on strip mines (such as coal mining operations covered by both state and federal leases) and differing management techniques exercised by the US Forest Service, which controls wildlife habitat on its land, and the state fish and game department, which manages the wildlife.

In New York, where much private land is intermingled with state park land (e.g., 91% of the land within Catskills State Park and 60% in the Adirondacks Park is privately-owned), the League describes state efforts to regulate private development in park environs by issuing permits covering size and scale of development. Even though only a small percentage of the land was actually subject to local land use regulation when the state effort began, a major home rule issue has emerged, writes Dorothy Hasen. Many of the areas involved are economically undeveloped and residents resent "being subject to state regulation for the benefit of outsiders, who have been permitted to develop their own communities out-of-state without interference. Some residents of the Adirondacks feel state land regulation may 'protect' them from the kind of economic growth they most need."

The New Hampshire League expresses concern about the lack of local or state land use planning and controls in areas immediately adjacent to national forests: "The forest is crisscrossed with strips of uncontrolled private land so that motorists are often confronted with strips of motels and fast food outlets rather than the spectacular mountain scenery."

The Idaho report describes problems among the federal agencies in Idaho. In responding to survey questions, "every federal agency claimed ignorance of the activities of all other agencies....Although recent years have brought some attempts among federal agencies to cooperate and coordinate, it is more common that 'everybody does his own thing.' It is even more significant that one agency has very little information on activities carried on by other agencies."

Other Leagues, including Maine, Missouri, Massachusetts, New Jersey and New Mexico, report similar problems. But there are some positive reports under this heading, too. Arizona, California, North Dakota, Vermont, Oklahoma and North Carolina all describe programs that are helping to achieve cooperation among federal, state and local governments.

Although some serious coordination problems exist in Arizona, Barbara Tellman reports a success story in federal-state-local cooperation in Tucson where a joint committee has worked to preserve from development a prime piece of land in the foothills. The resolution, she says, appears to be a mix of extending national forest boundaries, establishing a state park and new county recreation facilities--"this instead of a 15,000 home development" in a vulnerable area.

Creation of the Golden Gate National Recreation Area involved city, state and county governments, the National Park Service and Department of Defense, according to the California LWV report. A coalition of civic and conservation groups helped to bring about the compromise needed for success. The result is 34,000 acres of both undeveloped and urban parkland.

FEDERAL PLANNING

Many reports either stated or implied a need that was succinctly expressed by Francie Ruebel of South Dakota, "planning for good [federal] land use practices and balancing people wants with the suitability of the land to produce and retain an aesthetic quality."

Several League respondents in western states noted considerable citizen support for an "organic act" for the Bureau of Land Management to provide a vehicle for better planning and management of that agency's extensive holdings. Such an act, says a new Mexico Leaguer, would give BLM a congressional directive for management of the multiple uses of the land. "BLM currently operates under about 3,000 inadequate and confusing laws," notes the Idaho respondent.

STATE PLANNING

A problem common to a number of states is the lack of information about state lands and resources and mechanisms to plan for them.

"The major problem on state-owned lands is inadequate land use analysis and decision-making capability," writes Hawaii's Carol Whitesell. "Inventory of state-owned lands...is incomplete and data available often in a form usable for only one agency." Such planning aids are necessary to deal with increasing "pressures from conflicting needs for our lands." She also cites a need for stronger state requirements (such as public access on weekends, rehabilitation and reforestation) on state lands leased to the military.

Idaho's Dorothy Mandiloff says no planning mechanisms exist in that state for the best use of state-owned land, partly because of inadequate surveys, inventories and classification of these lands. California's respondent says a complete inventory of state lands has never been made by the state lands commission, which in any case has only limited powers to manage these lands or protect them from abuse. New Mexico lacks inventories of such resources as breeding places for endangered species, potential energy sources, archaeological sites and primitive areas of unique beauty. Alabama's Verda Horne also reports a lack of state land data.

In the view of many League observers, from Delaware, Missouri, Florida, New Jersey, New Mexico, Utah, Montana, Nebraska, South Dakota, Oklahoma and Wisconsin, more state funds are the answer for better inventorying, planning and managing of state land.

Many state Leagues, particularly in the West, report problems concerning their "school lands" or "endowment lands." These lands were granted by Congress to each state at the time it was admitted to the Union to be used for support of the public schools. They must be sold or leased to produce the greatest amount of income, a requirement that often conflicts with other needs such as preserving game habitat, natural ecosystems or recreational needs, reports the Montana LWV. Idaho, Oklahoma, Arizona, South Dakota and Colorado are among states where Leagues express similar frustrations. "State land leases and sales must, for the most part, be subject to auction, going to the highest bidder, not the highest and best use," according to Arizona's respondent.

Another financial problem was noted in Minnesota, Michigan and Virginia--the loss of tax revenues from land owned by state and federal governments.

PUBLIC PARTICIPATION

Leagues are universally concerned that citizens have an effective voice in land use decisions. Some indicate general satisfaction while others find opportunities limited or question the effectiveness of participation. And two state Leagues--Indiana and South Dakota--note that citizen apathy sometimes results in missed opportunities to participate.

The principal channel for public participation in federal decisions is through the Environmental Impact Statement (EIS) process established under the National Environmental Policy Act of 1969. An EIS must be

FEDERAL LAND OWNERSHIP BY STATES

State	% Federal	State	% Federal	State	% Federal
Ala.	3.4	Ky.	5.1	N.D.	5.0
Alaska	96.7	La.	3.6	Ohio	1.2
Ariz	43.9	Me.	.6	Okla.	3.4
Ark.	9.4	Md.	3.1	Ore.	52.4
Cal.	44.9	Mass.	1.6	Pa.	2.2
Col.	36.0	Mich.	9.3	R.I.	1.1
Conn.	.3	Minn.	6.5	S.C.	5.9
Del.	3.0	Miss.	5.2	S.D.	6.7
D.C.	28.0	Mo.	4.6	Tenn.	6.6
Fla.	9.8	Mont.	29.6	Tex.	1.9
Ga.	5.9	Neb.	1.4	Utah	66.1
Haw.	9.6	Nev.	86.5	Vt.	4.5
Idaho	63.8	N.H.	12.3	Va.	8.8
Ill.	1.5	N.J.	2.6	Wash.	29.4
Ind.	2.0	N.M.	33.3	W.Va.	6.8
Iowa	.6	N.Y.	.7	Wis.	5.1
Kans.	1.3	N.C.	6.2	Wyo.	48.1

Source: Public Land Statistics 1973, BLM, US Department of the Interior. (1972 Data.)

issued on any federal action with significant environmental effect, and recommendations from the public must be solicited. Even when opportunities are good for participation through EIS, some Leagues note problems: massive documents, inadequate time to reply, long travel distances, too many meetings, extensive and sometimes misleading input from economic interests.

Of even more concern to some is the question of the depth of public participation. "Is disclosure of the impacts of a project, adverse or not, sufficient to permit the project? Can adverse impacts be grounds to refuse to permit the project?" asks the Montana League. The Idaho LWV also describes frustration by citizens and local public officials who often wonder whether their testimony or wishes "really make any difference when the decisions are made by the Departments of Agriculture or Interior." Oklahoma's Helen Gorin adds that most federal decisions, although there aren't many in that state, are "handed down."

The Virginia Leagues's account of opportunities ranges from "listening sessions" held by the US Forest Service to none on the extensive military tracts in the state. The report concludes that "writing to your congressman seems to be the only way the average citizen, group or local and state government has for a channel of communication on any regular basis."

On the other hand, some Leagues have good news to report. New emphasis has been placed on the role of the public in determining the future of Yosemite National Park after a draft plan was rejected, partly because of lack of public participation. Now, writes the California League, the National Park Service's new planning process has "thrown the door open so the public can play a role from the outset." Informal, candid discussions allow citizens to express what they believe are the issues and problems of the park, the types of visitor experiences they would like to have available, what they think the future direction of the heavily used park should be. Alternatives will be developed from this input and returned to the public. The response will help shape the final proposal, also subject to citizen review.

Several states, including Utah, Missouri, Washington and New Mexico, tell of invitations from the US Forest Service to participate in national forest planning. North Dakota's Mardy Chapman describes a cooperative agreement that BLM has signed for joint state and federal planning for federal lands and minerals: "Citizen involvement is encouraged from beginning to end during the planning process. Proposed decisions will be given full public review before they become final...through informal contacts with citizens and interest groups and formal public meetings."

A number of Leagues report a dearth of opportunities to participate in decisions by the Army Corps of Engineers and in planning for re-use of abandoned military bases. In Massachusetts, however, the League reports that various groups are participating in the Base Conversion Commission established by the state when the federal government announced the closing of five bases. Citizen task forces, with representatives of local governments, regional planning agencies and private citizens have been established at each base to plan alternative uses.

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ALASKA: A SPECIAL CASE OF CHANGING MANAGERS

In Alaska public land issues are magnified because almost all the land area is currently owned by the federal government and potentially vast energy and mineral resources are involved.

As a result of land distribution provisions of the Alaska Statehood Act and Alaska Native Claims Settlement Act, this land is in a state of flux. Large acreages of federally-owned land are being redistributed to the state and to Alaska natives; in addition, proposals are being considered to designate part of the federal land in Alaska as "national interest" lands--national parks, national forests, national wildlife refuges and wild and scenic rivers. The major problem, writes Emilie Masada, is that "we are being asked to make long-term, far-reaching land use decisions within a time frame far too short! We barely know the land." She notes much competition for management of the "national interest" lands among the federal agencies with consequent duplication of research and evaluation.

The Alaska League expresses concern about the slow rate at which BLM is transferring federal land to the state. Once national interest lands are designated and Alaska natives pick their lands, "many are fearful...that the state will be left with 'glaciers and mountains'." Citizens have had ample chance to express their views on various land use decisions, the report states. "Whether these same voices will be heard in Washington, D.C., where the ultimate decisions will be made, is another question entirely."

CONCLUSION

From Florida to Alaska, from Maine to California, state Leagues have reported on issues that face state and federally-owned lands. While Leagues have traditionally monitored land issues in their local communities, more and more are finding that the vast acreages owned by state and federal governments have significant impact on the state's and nation's economy, environment and social well-being. And concern with the way public land is managed often suggests avenues for improvement, such as encouraging citizen participation in policy decisions about priorities for use of public lands, instituting planning and coordinating mechanisms among land managers and establishing more effective oversight of deleterious land uses. The survey is more than a research exercise or a collage of issues, however. It has stimulated land use committees to go after the answers that weren't forthcoming. In the words of one land use committee chairman, surprised at the difficulty in finding answers to questions, "I shall continue to identify answers, only now not so much for a survey but to satisfy the additional questions it has aroused."

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land use letter

Mining on Federal Lands

JULY 1975

On the surface, the third of our nation's land in federal ownership is a panorama of sprawling grassy prairie, desert, arctic tundra, semi-arid plateau cut by deep canyons, moist upland forests and rugged mountain terrain. Hidden from view, on these same lands, is a treasure of mineral resources--coal, oil, gas, gold, silver, copper, lead, zinc, uranium among the most significant.

Mineral resources have had first priority for use of the federal lands through most of our nation's history. Today, all but 100 million of the 725 million acres of federal lands are open to private mineral exploration and extraction. In addition the federal government owns all or some subsurface minerals on an additional 63 million acres where the surface is owned by private individuals; the minerals on these lands also are generally open to exploration and extraction.

Nowadays competition for use of federal lands is heavy: for timber, livestock forage, recreation, protection of wildlife, watershed, wilderness and scenery--as well as for the minerals. This competition, together with efforts to step up domestic mineral development to become less dependent on imported oil and other minerals, has focused attention on the laws allowing access to federal mineral resources.

The legal status of federally-owned mineral resources is defined in laws that date back as far as 1872 for most minerals including gold, silver, copper, lead, zinc and uranium and to 1920 for the fossil fuels such as coal, oil and gas. In recent years some congressmen, administration officials and conservation groups have been intensifying efforts to reform these laws and related procedures. They view them as obsolete, subject to abuse, and counterproductive to environmental protection, the financial interest of the citizens of the United States and the efficient development of needed mineral resources.

Although the industries involved in extracting mineral resources agree that some modification in present policies may be warranted, for the most part they support those which recognize mineral development as the highest priority use of federal land and give the private sector the initiative to explore and extract the minerals.

What are the procedures for mineral development on federal lands? Who administers them? What problems do they pose? What are the proposals for revision? These are some of the questions LAND USE LETTER No.4 will address at a time when our supply of minerals is diminishing rapidly and priority is placed on developing uranium, coal, oil and gas for energy. Although an additional billion acres of submerged lands on the Outer Continental Shelf are federally-owned and available for leasing, this issue will deal only with onshore development of federal minerals.

FEDERAL MINERAL RESOURCES: HOW MUCH AND WHERE

The extent of economic mineral deposits on federal lands is not known because the government has never fully explored or inventoried the mineral resource potential of its holdings. Geologists believe the federal lands of the West, including Alaska, generally hold greater promise for future onshore discoveries than any other region.

Some facts are available, however, primarily about known fossil fuel reserves. The federal government owns onshore: about 50% of domestic coal (including large amounts of low sulfur coal), 6% of gas and 4% of oil. In addition about 80% of high grade oil shale and 50% of uranium resources are estimated to be on federal lands.

Although oil and gas have been extracted from federal land for over 70 years (over 67 million acres are currently covered by federal oil and gas leases), only in the last few years has widespread interest turned toward leasing federal coal lands in the West. The combined impact of the energy crisis, higher fuel prices and the effort to become less dependent on imported oil has focused attention on these coal deposits, mostly located near the surface.

For other mineral resources the picture is less clear. There are no federal records that show how much mineral production is from federal land or how many reserves exist. Since federal lands comprise over half the land in the western states, total production for those states gives some indication of the importance of the federal resource base, however. In 1968 the 11 western states produced 90% of the nation's domestic copper, 95% of the nickel, molybdenum and potash and about 50% of the lead. Their importance is reinforced by the fact that most metallic mineral resources have been mined in the West.

Areas Open to Mineral Development

To gain an accurate picture of where federal mineral rights exist it is necessary to look back at federal land acquisition and disposal policies. The federal government at one time or another has owned most of the land area of the nation--about 80%. This land came into federal ownership through cession, purchase and treaty; much of it subsequently has gone into state and private ownership. (See LAND USE LETTER No.2.)

The 725 million acres still federally-owned are administered for surface use by a number of agencies: the Bureau of Land Management (BLM), National Park Service, Fish and Wildlife Service and Bureau of Reclamation, all agencies within the Department of the Interior; Forest Service, an agency in the Department of Agriculture; Department of Defense, and others with smaller holdings. Most federal land--about 633 million acres--is open to prospecting and mineral development, primarily administered by BLM no matter who manages the surface use of the land.

As private individuals, states and businesses acquired land from the federal government, mineral rights were usually conveyed along with the surface rights (although known mineral lands were not conveyed at all). In some cases, such as ranchers who obtained land under the Stock Raising Homestead Act of 1916, new owners acquired the surface only; the federal government reserved rights to some or all minerals. Currently about 63 million acres have this status and are open to development of certain mineral resources just as if the land were publicly-owned.

Restricted Areas

Mineral development is banned or restricted in certain large areas designated for such specific purposes as national parks, wildlife refuges, military reservations, campgrounds, administrative sites and some primitive areas. (See Withdrawals.) About half the federal land is in Alaska; although there is a partial moratorium on mining and leasing there now, decisions are now being made that will affect future use of mineral and other resources in that state. (See LAND USE LETTER No.3.) The U.S. government also has a trustee relationship with the Indian tribes and their lands, some of which have rich mineral deposits.

Further confusing the picture of federal mineral resources is the fact that the federal government does not own mineral rights on all its holdings. Most of the national forest system in the East was purchased from private owners rather than deriving from the original public domain. Just as the federal government retained some mineral rights on land it transferred to private surface owners, a number of these prior owners of the eastern national forests retained the mineral rights; thus prior owners of about 10 million acres, or their successors, still own minerals on these federal lands.

HOW FEDERAL MINERAL DEPOSITS ARE DEVELOPED

The federal government provides three basic systems for making its mineral resources available for private development. The oldest is the "location-patent" system under the General Mining Law of 1872. It evolved from rules worked out by western miners and, although it once covered all mineral deposits, it now applies to all those that have not been removed by subsequent legislation. The minerals covered by this law are commonly called the "hardrock" minerals. (Although the minerals themselves may not be hard, they often occur in or are associated with crystalline rocks.) Uranium is covered by this law; so are most other metals. (See chart.)

The second is the mineral leasing system established by the Mineral Leasing Act of 1920, which removed fossil fuels and certain other mineral resources from the location-patent system and set up a leasing method. It provided the first control over when and where mineral development should take place and the first payment to the U.S. Treasury for federal minerals. The third system is a method of direct sale of certain common materials such as sand, gravel and stone under the Materials Disposal Act of 1947 as amended by the Multiple Surface Resources Act of 1955. This system removed these common materials from the provisions of the 1872 law.

Location-Patent System

In 1866 there was no federal law controlling mining on federal lands. An effort at leasing mineral lands had dissolved earlier. The prevailing national policy of that era held mineral development to be the most important use of land, and the federal government was anxious to settle the West. Anyone willing to find mineral deposits was free to do so with no restrictions imposed by law. With the philosophy of free enterprise and "laissez faire" dominating this period, miners made their own rules to settle conflicts that arose. These rules became the basis for the first federal law in 1866, later revised as the General Mining Law of 1872.

The system provided by this law is still in effect today. Here is how the "hardrock" prospector goes about seeking a fortune, be it uranium, silver, gold or something as prosaic as gypsum. The first stop is at the BLM office with jurisdiction over the intended search area in order to find which areas are open to prospecting. Most federal lands open to prospecting and mining are in Alaska, Arizona, Arkansas, California, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington and Wyoming, although smaller areas in Florida, Louisiana and Mississippi also are open.

STAKING A CLAIM

The prospector is free to go into the area of his (or her) choice if it is open to prospecting, and start looking for mineral deposits. It is not necessary to get permission or even notify BLM or the private surface owner (although in the latter case the prospector would be prudent to do so!). The only legal requirement is citizenship. A valuable mineral discovery gives the prospector the opportunity to stake a claim. (A claim, or location, is a particular piece of land of prescribed size for which an individual asserts a right to

specific mineral deposits.) This right is established by first marking the boundaries on the surface--usually with a stack of rocks or with wooden poles at the corners--and by posting a notice. The next step is to record the claim at the county recorder's office where one can find whether an earlier claim has been filed.

At this stage, the prospector is not specifically required to prove the value of the discovery. Yet unless it is significant enough to justify the time and investment of a "prudent man" (interpreted to mean that it can be marketed profitably), the claimant has no legal right to the minerals. The government may contest the validity of a claim at any time, and if no significant mineral deposits are found, the claim can be declared null and void. Due to the lack of manpower to check all claims on record in county recorders' offices (an estimated 6 million), BLM cannot investigate and enforce adherence to these rules. A final note: There is no limit to the number of claims a prospector may stake.

The prospector who believes the discovery is valid is now free to begin mining and selling the ore. The U.S. Treasury receives no revenue from sale of these mineral resources. If the mine is on BLM-managed land, the miner is not even required to notify BLM. BLM does not regulate the mining operation itself, but federal mining safety and anti-pollution laws apply, except where stricter state laws prevail.

If the mine is on private land where the government has mineral rights, bond has to be posted to cover any damage to crops or agricultural improvements. The Forest Service does require notification and impose regulations on mining in national forests and wilderness areas; the prospector obtains the necessary information from the district ranger office.

One hundred dollars worth of development work must be performed on each claim each year. As long as this work is performed, a valid claim will remain in effect indefinitely--even though the claimant does not choose to extract the minerals. An annual statement should be filed in the county recorder's office testifying that the work was performed and serving as a protection against subsequent challenge.

PATENTING A CLAIM

Still another option is open: the claimant can acquire title--full and permanent ownership rights--to the land upon proof that the mineral discovery will justify the investment of time and money by a "prudent man." Here are the steps that must be followed: 1) post notice of the claim in the local BLM land office and newspapers (this is the first official notice the government has of claims against its land), 2) prove citizenship, 3) have an official land survey made, 4) prove at least $500 worth of improvements have been made, 5) present an abstract of title, 6) have the mineral character of the discovery verified by a BLM mineral examiner, and prove to the satisfaction of BLM personnel, including mining engineers, geologists and economists, that a "prudent man" can market it profitably. If the claim is contested, a court must decide whose rights prevail.

After completing the preceding steps, the claimant has only to pay a purchase price of $2.50 or $5.00 an acre (depending on the type of mineral deposit) to receive a "patent" or deed granting title to the land--not only to the minerals but to the surface and any resources on it. The new landowner is not required to mine and may use the land for any purpose allowed under local law, such as residential development, timber-cutting, grazing, farming or resort (although uses other than those directly related to mining are prohibited before title to the land passes into private ownership).

Since 1872 the federal government has transferred approximately 3 million acres of federal land to private ownership through 64,000 mineral patents. Most legitimate miners today choose to mine on unpatented claims, which are not subject to local property taxes. Mining on unpatented claims also avoids costly surveys and the "prudent man" test required for patenting.

ADMINISTRATION OF 1872 MINING LAW

Government regulation and control of mineral development on federal lands under the 1872 mining law is minimal since the law gives iniative and priority to miners; the federal government can exercise some limited discretion, however.

The principal function required by the General Mining Law and exercised by BLM for all federal land is the issuing of patents after claimants meet the requirements for acquiring title to the land. In deciding whether to grant a patent, BLM must determine whether a discovery can be marketed profitably. Costs of environmental controls (which would be required by federal anti-pollution laws after the property passes into private ownership) are now being considered as a part of the miner's cost of doing business in addition to normal production costs. BLM's economic test also takes into account the market value.

BLM also handles adjudication proceedings when there is a challenge to the validity of mining claims, usually if the federal government seeks to use the land for other purposes or if the claimant applies for patent.

Withdrawal

The federal government has traditionally exercised only one method to limit mining under the 1872 law: withdrawal. This is removing a specific area of land from application of certain public land laws by designating it for a special public purpose. Land withdrawn from the General Mining Law is closed to prospecting and mining. Land can be withdrawn by congressional or executive action. Only Congress can withdraw military land over 5,000 acres, national parks and monuments, wild and scenic rivers, wilderness areas (after 1984) from application of the mining laws. (Five national parks and monuments remain open, however.)

The Secretary of the Interior can withdraw land for such purposes as administrative sites, campgrounds, reclamation projects, scenic or historic areas upon request of the federal agency involved. If the secretary approves a withdrawal, notice is published in the Federal Register and usually the local press. If interest warrants, hearings are

held before a final decision is published.

The mining industry contends that executive withdrawals have been exercised too widely and urges limiting this discretionary power; environmental groups attempt to guard this prerogative as the only means available to prevent mining activity where it would degrade the environment.

In mineral-rich Alaska, where the federal government currently owns over 90 percent of the state land area, 80 million of the government's 350 million acres have been completely withdrawn from mining and leasing laws while this acreage is being considered for such special purposes as national parks or forests. On remaining federal land in Alaska, including large amounts to be transferred to the state and Alaska natives, the extent of withdrawal varies. Recently, industry has expressed interest in mining on these lands.

Regulation

The Wilderness Act of 1964, although enacted to preserve certain natural areas from development, recognizes miners' rights. It permits establishing claims until 1984 and mining on valid claims indefinitely but does authorize certain environmental controls. The Forest Service, which administers most wilderness areas, regulates use of mechanized equipment, size of exploratory excavations, roadbuilding, land reclamation and other surface activities. It requires that notice of claim be filed with the Forest Service and that the miner restore the land at the end of mining operations. Title to the surface and its resources remains with the federal government. Since the Wilderness Act went into effect, claims have been filed on wilderness areas but only two mines are operating and neither affects the surface, according to the Forest Service. BLM's primitive areas are designated administratively and are withdrawn immediately from mineral entry.

In addition to wilderness area regulations, the Forest Service recently asserted its authority to protect surface values of national forests by issuing regulations that impose limited controls over the location-patent system of prospecting and mining (Federal Register, Aug. 28, 1974). Under certain conditions, the Forest Service requires operators to file notice of intent to explore or extract minerals. If the Forest Service determines that the operation will have substantial environmental impact, it will require a plan for approval and bond commensurate with land rehabilitation costs. These rules are the first significant administrative efforts to impose control over mining practices on federal lands.

A BLM spokesman says that agency is considering comparable regulations for its vast holdings. Government agencies were authorized to manage surface resources on unpatented claims by the Multiple Surfaces Resources Act of 1955.

PROBLEMS AND ISSUES

The General Mining Law of 1872 responded to the national policy of its time--encourage citizens to settle the West and recover minerals needed for the nation's industrial growth. While many critics of the law agree that it served a purpose in pursuing this policy, they believe it has outlived its usefulness. In light of today's values and conditions, the century-old law causes problems--to the land managing agencies, to conservation groups, to industry. Among them:

- Because the 1872 law gives initiative and priority to private mineral development, federal land use planners must determine the location of mineral claims and take them into account before planning other uses. Even where a land use plan exists, a prospector may stake a claim without regard to planned uses. Federal land managers have only the all-or-nothing tool of withdrawing land from any mineral development.
- The mineral resources, although found on land belonging to all citizens, bring no return to the U.S. Treasury but become the sole property of the private developer.
- Mineral resource discovery has sometimes been used as a subterfuge to obtain land, not for mining, but for such purposes as vacation sites, gas stations, logging, resorts. The payment to the government--$2.50 or $5.00 per acre--does not even approach fair market value.
- One of the intended purposes of the law--to stimulate development of needed minerals--is no longer served. Patented land that has been developed for other purposes (such as residential) may never be used for mining. Claimants may hold claims indefinitely waiting for market prices to warrant mining, and the government has no power to stimulate mineral development.
- Requirements that miners comply with state laws (which vary widely) for proving mineral discovery and $100 annual development has led to such problems as "discovery pits" on each 20-acre claim or needless bulldozing performed only to hold the claim for future use. Such work is often done only to comply with the law, without regard for damage to the land or actual need.
- Many abandoned claims exist but BLM is unable to clear them since it lacks manpower to check claims in each county recorder's office. Abandoned claims cloud U.S. title to the property and affect any plans to use the land for other uses.
- The century-old mining law has none of the environmental protections contained in modern land resource legislation. With no land protection and reclamation provisions, serious ecological alterations and pollution have resulted.
- The uncertainty about the legal interpretation of what constitutes a profitable mining operation for a "prudent man" has made it difficult to determine whether the mineral discovery warrants issuing a patent and many lawsuits have resulted.
- Modern prospectors say that the lack of guaranteed tenure of a site before discovery is proven discourages mineral exploration. Surveys and modern exploration methods require heavy investment, which is not practical unless the prospector is fairly certain of discovering deposits significant enough to satisfy BLM's "prudent man" test and establish valid claim to the minerals.

TIME FOR CHANGE?

The basic provisions of the 1872 law remain in force today. Other uses of federal lands such as logging, fossil fuel extraction, livestock grazing are all subject to laws and regulation for environmental and other considerations, but mining remains unregulated for the most part.

The mining industry holds that mineral extraction is the highest possible use of the land in view of the limited supply of many minerals. Industry representatives stress that other uses of land can be located and planned in a number of places to suit environmental and other public needs, but minerals can be mined only where nature placed them. They contend that the location-patent system must be preserved in order to guarantee access to the minerals and the right to hold them for development at their discretion. In 1974, the Senate Interior Committee considered comprehensive mining law revisions. The Administration bill would have established a uniform leasing system for all minerals. The industry-supported proposal provided some environmental controls and payment to the federal government. Another suggestion put forth would patent only the minerals, not the surface. Surface land needed for the mining operation would be sold at market value.

The only legislation dealing with the General Mining Law of 1872 under active consideration by Senate and House Committees on Interior and Insular Affairs is a provision in a proposed BLM Organic Act (see LAND USE LETTER No.2). This would require that all existing and future claims be recorded with BLM and that all claimants must file for patent within a certain period after the claim is recorded or lose the claim.

Senator Lee Metcalf (D-MT) has introduced a bill (S.282) to establish a leasing system for minerals now subject to the 1872 law, and an Administration bill is expected. (It is interesting to note that leasing hardrock mineral lands is not totally unknown on federal lands. Special leasing legislation covers certain areas, acquired by purchase, gift or exchange, where the government has mineral rights.) Your congressman or woman can keep you aware of new mining proposals.

MINERAL LEASING SYSTEM

In 1872 no one foresaw the importance of oil and gas to the country's future. As oil and gas began to be extracted from federal land, it soon became evident that the location-patent system was inappropriate. The 20-acre claim size did not lend itself to petroleum extraction; a developer needs to control a much larger acreage for efficient production. Dissatisfaction with this system and concern about depletion of reserves led to the passage in 1920 of the Mineral Leasing Act. The act sets up a system to lease use of land for extracting certain minerals and fossils.

The effect of the leasing law was to give the Secretary of the Interior his first discretionary authority over how, when and where mineral extraction should take place. (This function is now delegated to BLM.) Whereas the options previously were to withdraw a specific tract completely from mineral development or to permit uncontrolled development, the new system allows a middle course, with greater regulation by BLM. It also provides for payment to the public treasury--although some contend not enough has been charged--and does away with the patenting system for these mineral deposits.

METHODS OF LEASING

Leases under the much-amended 1920 law may be issued competitively or noncompetitively. The rules for oil and gas leases are different from those for coal leases--and the old rules for coal leasing are being rewritten.

The government issued coal leases on nearly 800,000 acres primarily during the 1960s; only 48 of 463 leases issued during this period were producing coal as of 1974. In 1973 the Secretary of the Interior sharply restricted coal leasing until a new policy could be formulated to stimulate timely coal production and specify environmental measures. A new coal leasing program is expected in the fall of 1975.

Noncompetitive Oil and Gas Leasing

Most onshore oil and gas leases--about 95% of 100,000 existing leases--are noncompetitive. These are issued on land determined by BLM to be outside the known geological structure of a producing oil field. Any citizen or domestic corporation may apply to BLM for a noncompetitive lease on federal land or where the government owns gas or oil rights by paying a $10 fee. If the tract has never been leased before, the first qualified applicant receives the lease. For leases that have expired BLM issues periodic lists of available tracts and provides a lottery system to determine the winner if more than one applies.

The lessee has the exclusive right to explore and extract gas or oil on a specific tract up to 2,560 acres for 10 years or as long as paying quantities are produced. He or she must pay annual rent of 50¢ per acre until production begins, and then a royalty--a fixed 12½ percent of the market value. The lessee is under no obligation to develop the lease but will lose it at the end of ten years unless oil or gas is being produced--or unless "diligent development" can be shown.

Some contend that the government's lack of full knowledge about the federal resource base and a narrow interpretation of the extent of a producing oil or gas field are reasons for widespread noncompetitive leasing. Whatever the reason, thousands apply for these relatively inexpensive leases and hold them in the hope of "striking it rich" if an oil company will buy the lease and pay an additional royalty to the original lessee if oil is discovered. Few are lucky in lease speculation, but the U.S. Treasury is richer by several millions of dollars annually from the $10 filing fees alone.

Competitive Oil and Gas Leases

When the U.S. Geological Survey determines that land is located within the geological structure of a producing field, BLM opens the area for competitive leasing and accepts bids for an initial cash payment (called bonus payment). The qualified high bidder receives a lease granting exclusive rights to drill for oil or gas on a tract up to 640 acres for five years and as long as paying

quantities are produced. The bonus payment depends on the competition in bidding. Bids may be in the millions of dollars--or BLM may reject them if they are too low in relation to the value appraised by the U.S. Geological Survey. The lessee pays annual rent of $2 per acre until production begins and then a royalty ranging from 12½ to 25 percent of the market value.

Coal Leases

Although few leases are being issued now, two coal leasing methods remain on the books until a new policy is announced: competitive and "preference rights." Competitive coal leasing operates similarly to oil and gas leasing: cash bids for tracts where coal is known to exist (based on the geologic structure), rental during exploration, royalties after production begins. In areas not known to contain coal, a prospecting permit is issued noncompetitively without bidding. This grants exclusive right to explore a specified tract up to 5,120 acres for two years. Upon discovery of coal, the prospector automatically is granted a "preference rights" lease. Neither the competitive nor preference rights lease has had an acreage limit in the past (except that no lessee may have more than 46,080 acres in lease holdings in one state); acreage limits are likely to be imposed, according to BLM. Each kind of lease has been granted in the past for an indefinite period, subject to "diligent development" and "continuous production." They are subject to renegotiation every 20 years. Rentals on older leases range from 25¢ to $1 per acre, but are being increased in new leases, according to BLM. Coal royalties on most existing leases were set at a fixed price per ton, determined individually when each lease was issued. The most recent leases provided for an 8 percent royalty but not less than 40 cents a ton. About half the existing coal leases were issued competitively.

Known Federal Coal Leasing Areas for Competitive Bidding

Source: U.S. Geological Survey

- Prospective Valuable Land
- Known Coal Leasing Areas (KCLA)
- Areas under study for definition as Known Coal Leasing Areas

Revenues

Rents and royalties, set administratively by the Department of the Interior, are subject to minimums set by law. Onshore mineral leases and permits brought receipts totalling about $150 million in 1973. In the lower 48 states the federal government returns 37½ percent of mineral royalties (from lands composing part of the original public domain) to the states where the minerals are extracted. These funds are restricted to school and road expenditures. Another 52 percent is allocated to the Bureau of Reclamation, an agency in the Department of the Interior, for use in developing water supplies through such means as dams and reservoirs and making water available for agricultural, industrial use. The remaining 10% goes into the general fund of the U.S. Treasury. The state of Alaska receives 90 percent of mineral revenues collected.

Lease Conditions

Leases do not extend to uses of the land other than those related directly to mineral production; the respective federal land managing agency (or surface owner) continues managing the land for various other purposes.

All leases impose a number of requirements such as protection of the surface and natural resources; diligence, skill and care in mineral development; prevention of waste; record-keeping; and, at the expiration of a lease, land rehabilitation or payment for damages.

Upon approval by BLM, cooperative agreements and transfer of leases are permitted in order to form large enough units for efficient production.

At the end of each leasing period, the individual requirements for rents, royalties and environmental protection can be revised.

LEASING PROBLEMS

Mineral leasing, much amended and regulated since 1920, has fostered problems of its own even though it eliminated some of those inherent in the older mining law.

The Revenue Problem

Because most oil and gas leasing is noncompetitive and both royalties and rentals are considered low, critics of mineral leasing practices, including conservation groups and some economists, see disposal of these resources over the years as a giveaway. Even the competitive system, which would seem to ensure a fair return, has presented difficulties. Frequently lack of bidders or unrealistically low appraisals have resulted in low bids even when sales are competitive, they say.

The practice of setting coal royalties at a fixed price per ton rather than a percentage of market value may encourage delayed production in the hope that prices will increase at a later date. For example, western coal that was leased during the 1960s has increased in selling price from about $1.50 per ton to $4.00 to $6.00 a ton. With a fixed royalty, the public treasury does not benefit from the higher sale value. In fact, as the price goes up the percentage return to the federal government goes down.

A BLM spokesman says that a percentage royalty was written into a few leases just before the slowdown in coal leasing was declared in 1973 and will be part of the anticipated new policy.

States have encountered a revenue problem of their own due to restrictions on use of royalty receipts for schools and roads only. When the law was enacted, schools and roads were the principal needs of communities impacted by mining and drilling activities. Now states need the revenues for planning, sewers, police and other public facilities and services as well.

The Environmental Problem

Conservation groups want the Department of the Interior's protection of the environment to be strengthened--both by stricter regulations and strict enforcement of them. They say BLM lacks manpower to monitor practices, but they also say mineral development has had too much priority.

All mineral leases issued since 1969, when the National Environmental Policy Act (NEPA) was passed, are subject to its requirements for environmental impact statements. Since most coal leases were issued before 1969, they will not be subject to NEPA until the date when lease requirements are subject to revision. All new and renewed leases are also subject to federal laws and regulations for air, water and noise pollution.

The Production Problem

Should the granting of a lease carry an obligation to extract the minerals? One of the reasons for establishing a leasing system was to achieve timely production of minerals. A lessee is not required to develop the tract--although the lease will not be extended unless it is producing by the end of the lease period. In the case of noncompetitive leases there is little incentive to develop the minerals since the initial $10 filing fee and rental costs are low. Requirements for "diligent development" have never been rigidly enforced, partly because of lack of definition. The lack of any significant coal production on western coal fields leased in the 1960s points up this leasing problem. Critics cite speculation in higher future coal prices as the reason, although some welcome the delay in order to deal with the broad issue of whether extensive mining of western coal is needed or desirable.

Representatives of the mining industry say the delay is caused by the start-up time needed to install technical equipment and acquire sufficient land under lease for an efficient mining operation. Even with competitive leasing, they say high cash bonuses paid in advance tend to tie up capital needed for development costs, thus holding up production. Coal mining companies also say they must hold reserves in order to fulfill long-term commitments to power companies.

The Fragmentation Problem

Administration of the mineral leasing laws is divided among BLM and the Conservation Division of U.S. Geological Survey; in addition the U.S. Forest Service has a significant role concerning leasing in national forests and wilderness areas. BLM is the agency that holds lease sales, issues leases and sets lease conditions. Each land managing agency continues to manage the surface use. (Lands open to leasing are primarily located in BLM-administered areas and national forests. Leasing is banned by administrative regulation in national parks and monuments, almost entirely on military land, and limited in wildlife refuges.)

After the lease is issued, the Geological Survey approves development plans, collects rents and royalties and supervises actual drilling, mining and reclamation operations. The Geological Survey is also the agency that makes appraisals and provides the information about "known geological structures" to determine which areas BLM should open to competitive leasing.

A cooperative agreement between BLM and the Forest Service empowers the Forest Service to attach special environmental conditions to leases or to deny specific leases on the land under its jurisdiction, primarily national forests and wilderness areas. (All leasing in wilderness areas will end in 1984. Among the very few leases existing in wilderness areas now, none affects the surface, according to a Forest Service spokesman.)

This split authority among BLM, Geological Survey and Forest Service has drawn criticism from those who believe efficient administration of federal leasing would be better served by a single agency if stricter oversight would be the result.

The Surface Ownership Problem

When decisions were made to divide ownership of the land surface and the subsurface minerals, strip mining was not practiced extensively; neither oil drilling nor deep mining seriously affected the surface. Now, however, ranchers in Wyoming, Colorado, Montana, Utah, New Mexico and North Dakota are concerned about their lack of protection from widespread strip mining of coal on their ranchlands. The Department of the Interior says the secretary is considering this problem in formulating a new coal leasing policy; coal leasing legislation being considered in Congress may also deal with this issue. (See below.)

STEP-BY-STEP LEASING CHANGES PROPOSED

In 1974 the Senate Interior Committee considered several leasing bills, including one to replace the Mineral Leasing Act of 1920 and General Mining Law of 1872 with a new lease system. A coal leasing bill passed the Senate but not the House.

Because of the difficulty in gaining agreement on the many aspects of comprehensive legislation, separate bills dealing with individual problems on a priority basis are likely to be considered this session: first, coal leasing legislation; later, amendments to oil and gas leasing, and finally amendments to the 1872 mining law.

Two similar coal leasing bills are being considered by the Senate and House Committees on Interior and Insular Affairs. They are S.391 introduced by Sen. Metcalf (D-MT) and Sen. Jackson (D-WA), and H.R.6721 introduced by Rep. Mink (D-HI). Both bills would eliminate coal prospecting permits and preferential rights to leases by requiring competitive lease sales only. This

change is opposed by the coal industry which says a company must have preferential rights to justify expenditure for highly specialized exploratory methods; BLM contends enough coal deposits are known that exploration is not necessary.

These bills also would:

- allow lease sales only when consistent with a comprehensive land use plan prepared by the responsible federal land managing agency;
- stimulate coal production from leases by requiring a development and reclamation plan from the lessee within one year after a lease is granted and by cancelling a lease unless coal is produced after a specific date;
- allow shared state revenues to be used for planning, facilities and services in impacted areas in addition to schools and roads.

At hearings in May 1975 stricter standards for land reclamation and alternate methods for paying for leases such as deferred bonus payments and profit sharing were suggested. Additional information on new proposals can be obtained by writing your congressman or woman.

Concurrently, the Department of the Interior is proposing new coal leasing regulations (Federal Register, Dec. 11, 1974). They would define and direct diligent development of a lease, mining operations of efficient size and continuous development of a lease.

BLM's land use planning procedures (see LAND USE LETTER No.2) are being used to help make decisions about where and when coal leases will be issued. This planning process, requiring public participation, is the basis for evaluating other uses and values of the land--timber, watershed and grazing, for example--in relation to the needs for coal. The Department of the Interior's recommendations for coal lease allocations are to be based on rehabilitation potential, national energy policy, coal consumption forecasts and demand for coal by industry. BLM state offices can provide information about how citizens can become involved in land use planning in any given area.

Material Disposal System

Common building materials of relatively low unit value such as sand and gravel found on federal land are sold publicly, usually by competitive bidding based on minimum appraisals. Each federal land agency handles sales of these materials found on the land it manages and supervises their removal under its own regulations. This system of public sales was provided in the Materials Disposal Act of 1947. As amended in 1955 (Multiple Surface Resources Act), the system alleviated one of the serious problems caused by the General Mining Law of 1872 by removing these common materials from the claim and patent provisions and by giving the government agencies authority to manage the surface of unpatented claims.

CONCLUSION

Questions about policies and procedures for mining on federal lands are matters of concern to all citizens. Foremost, should mineral development continue to have first priority for the use of federal land? Some voices say that we must become self-sufficient for energy sources and other needed minerals, that we must develop the resources toward that end. Other voices urge that we should protect public land for other purposes,too, such as forest, range, recreation or wilderness, that we should, therefore, go slowly on mineral development on these lands.

How can the government determine where and when mining should take place? Should the public get a greater share of the market value of mineral production from its lands? How can effective environmental controls be applied to prospecting and mining activities on federal lands? These and other questions will be part of any deliberations about proposals for changes.

The answers may affect energy supplies, federal revenues, environmental quality of federal lands and the ways the lands will be used. These issues deserve consideration by all citizens. You don't have to live near a mining operation or federal land to become involved. An understanding of present policies and procedures will help you, wherever you live, to have an effective voice in decisions for the future.

MINERAL DISPOSAL SYSTEMS

LOCATION-PATENT	MINERAL LEASING	MATERIALS DISPOSAL
Copper	Coal	Sand
Lead	Oil	Gravel
Uranium	Gas	Stone
Gold	Oil Shale	Pumice
Silver	Phosphate	Pumicite
Nickel	Sodium	Cinder
Iron	Native Asphalt	Petrified Wood
Zinc	Bitumen	Clay
Molybenum	Bituminous Rock	
All others not specifically removed by law	Potassium	
	Sulfur	
	Potash	

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Implementing the National Position on Land Use

committee guide

With three years of study behind us and a new national position in hand, the League is now in a unique position to play a leadership role on land use issues at all levels of government. By drawing from its diverse program experience and extensive work at state, regional and local levels of government, it can serve as the focal point for citizen understanding of and support for new land policies and programs. Achieving responsible land management can simultaneously help bring Leagues closer to meeting long-sought human resource and environmental goals, "equal rights for all" and a "physical environment beneficial to life."

This COMMITTEE GUIDE provides you with concrete ideas on methods, issues and resources Leagues can use in working on this challenging new action position.

THE NATIONAL LAND USE POSITION: WHAT IT MEANS

In response to a growing desire on the part of Leagues for a national focus on land and its resources, delegates to the 1972 national convention adopted land use as a major new program concern. In a three-year study Leagues examined public and private rights, land use goals and responsibilities and roles of all levels of government.

The extensive and careful member consideration crystallized in a position that was announced by the LWVUS board of directors in March 1975. In essence, members agreed that:

- ☐ Land ownership involves responsibilities of stewardship and consideration of both public and private rights.
- ☐ While every level of government must share responsibility for land management, it is essential, at a minimum, that some level of government determine and regulate critical land areas and activities.
- ☐ The federal government should exert a special leadership role through policies, standards, incentives and sanctions for state and local land management.
- ☐ Special attention must be given to inter- and intra-governmental coordination and more effective citizen participation.

(See the Spring 1975 issue of the National VOTER, pp. 19-26, and the LWVUS news release dated April 1975 for detailed review of the national position.)

PRESENT AND FUTURE ACTION IN CONGRESS

President Ruth Clusen testified before the House Interior Committee (March 1975) and the Senate Interior Committee (April 1975) in favor of federal legislation to provide financial incentives for state and local land use planning and management: HR 3510, "The Land Use and Resource Conservation Act of 1975" introduced by Rep. Morris Udall (D-AZ) and Rep. Alan Steelman (R-TX) and S 984, "The Land Resource Planning Assistance Act of 1975" introduced by Senator Henry Jackson (D-WA). These bills would give states grants to help them develop processes and programs to inventory and manage (in cooperation with localities) land areas and activities of critical concern (such as larger-than-local uses, large-scale developments and key public facilities, including energy).

League members immediately responded in an effort to get comprehensive land use legislation enacted this session. They wrote members of Congress, assembled data on land problems and worked to arouse community support.

Deapite the League's best efforts, the bill did not get out of the House committee. As it worked out, the House Interior and Insular Affairs Committee voted in July 1975 (23 to 19) to table HR 3510. This means the legislation is virtually dead in the House at least for this session, even though Rep. Udall has reintroduced the bill as completed in committee (HR 8932) after the tabling vote on HR 3510.

As we suspected, getting good federal legislation on land use through Congress will not be easy. Public discussion of the need for a national land use policy and of the objectives to be sought in programs for better land management has been fraught with emotional arguments, both in Washington and "back home."

National land use legislation has been sidetracked by a play upon the fears of infringement on private property rights and fear of government controls. State and local land resource programs are also often impeded by diversionary tactics. Leagues, with their close community ties and long-standing role of providing a forum for the discussion of issues, are in a particular-

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ly good position to initiate community information efforts to illuminate the land use issues in a rational manner. Programs that generate broad community participation and understanding will contribute to League land use action.

APPLYING THE NATIONAL POSITION AT ALL LEVELS

Land use is an issue uniquely suited to timely action via vertical programming. Strengthening the capacity of local, regional and state governments to manage and guide land use is not only consistent with our national land use position, it is a key factor in implementing it. Our new national land use position provides a firm basis for Leagues at all levels to speak to the protection of both public and private interests, citizen participation, goals to guide land use, responsibilities government should assume in order to guide land use, kinds of land areas and activities that should be managed, and coordination of government programs and processes to adjudicate land use conflicts.

At the national level, work will continue for a more effective federal role. Our position can be applied to federal legislation, administrative regulations or litigation; the actual areas or targets for national action will be determined by the LWVUS board of directors. Watch for NATIONAL BOARD REPORTS, REPORTS FROM THE HILL, and ACTION ALERTS to keep abreast of what lies ahead in national legislative action. There are scores of federal programs, either in place or proposed, that affect land use directly or indirectly--through grants, loans, guarantees, technical assistance, land use management or location of federal facilities.

Leagues at the state, regional and local levels will also be working to influence land resource decisions under state, regional and local positions they have already developed and under national environmental quality and human resources positions. The range is wide: zoning and subdivision ordinances, master plans, recreation and open space, critical environmental areas, access to housing and employment--and many more.

Whatever the base for action, strong and continuous citizen participation, scrutiny and support at all levels are essential if these governments are to realize the policies and procedures set forth in the national land use position.

When a local board applies the national position to a local land use controversy (such as a proposed airport...dam...wilderness area...housing project) it should analyze the particular situation. The general rule is, proceed with care:
--be sure that membership understanding and support are firm, and
--consult the other Leagues affected by the action and make certain they are in accord.

HOW LEAGUES CAN ORGANIZE TO ACT

IN GENERAL

A continuing working resource/strategy committee on land use is vital to effective action. The committee should keep up-to-date on land use questions; develop and maintain contacts with key officials and other organizations; and, most importantly, work with other related committees.

If you are a chairman, here are a few reminders:
☐ Build a committee, using previous committee members, but be sure to keep on drawing in new

Here is a combination check-list and quick guide for each local board as it plans for effective action on land use.

1. The action planning body.

☐ Do you have a land use strategy committee?

☐ Do you plan to have your local board serve as the action strategy committee?

☐ Do you have specific deadlines and a timetable for your action strategy?

2. The community profile.

☐ Do you have a list of supporters and opponents (groups and community leaders) as the result of previous land use action on state/local positions?

☐ If you've had no land use League action, do you have a list of likely supporters gleaned from other action having related problems; for example, community development, housing, environmental issues?

☐ If you don't have such a list already, is someone responsible for putting one together?

☐ Do you have a careful reading on the land use position of key public officials:
- governor/mayor?
- local/state legislative leaders?
- regional commissions?

3. A working inter-group organization: state and local level.

☐ Do you plan to have a clearinghouse (and/or coordinating) organization?

☐ Do you plan to have a more formal coalition which might take joint action, say in the name of the coalition?

--Is the League in a leadership position? If not, how likely is the group to reflect League thinking?

--Will the coalition be willing to function in relation to federal land use legislation as well as state/local problems?

For more detailed help in developing an action strategy, see the new handbook, In League, pp. 19-20, 25-27, 38-41, and the Action handbook.

STATEMENT OF POSITION ON LAND USE

The League of Women Voters of the United States, recognizing that land is a finite resource, not just a commodity, believes that land ownership, whether public or private, implies responsibilities of stewardship.

In decisions about land use, public as well as private interests should be respected, with consideration for social, environmental and economic factors. Each level of government must bear appropriate responsibility for planning and managing land resources. It is essential, at a minimum, that an appropriate level of government determine, regulate and guide critical activities and the use of critical land areas. To guarantee responsive and responsible governmental decisions, citizen participation must be built into the planning and management of land resources at every step.

To these ends, the federal government should exert leadership to:

--encourage formulation of land resource goals;

--develop policies and standards for conserving land resources;

--foster coordinated planning and management of land resources by all levels of government;

--foster cooperation among agencies and among levels of government in establishing mechanisms that ensure consideration of all public and private rights and interests affected by land use decisions;

--minimize conflict of interest on the part of those who make decisions about land resources;

--ensure more effective citizen participation through such measures as adequate funding for citizen information and review.

DETAILS OF POSITION

Land Use Goals

These goals should guide and direct the planning and management of land in the United States:

* relate use of land to its inherent characteristics and carrying capacities;

* assure consideration of human needs - social, environmental and economic;

* incorporate conservation and wise use of energy and other basic resources into planning and management of land;

* protect private property rights and values in accordance with overall consideration of the public health, safety and welfare;

* develop processes for comprehensive land use planning;

* enhance local and state capabilities for planning and management of land resources;

* encourage regional planning and decision-making;

* require reclamation of lands damaged by such activities as surface mining, overgrazing, construction;

* develop a national policy on growth;

* maintain and improve the quality of existing urban communities;

* ensure public access to unique recreational areas, with due regard for carrying capacity;

* foster innovative community design.

Responsibilities of Government

The appropriate level of government should:

* inventory land resources and present uses;

* provide information on social, environmental and economic needs;

* identify and regulate areas of critical concern

--fragile or historic lands, where development could result in irreversible damage (such as shorelands of rivers, lakes and streams, estuaries and bays; rare or valuable ecosystems and geological formations; significant wildlife habitats; unique scenic or historic areas; wetlands; deserts)

--renewable resource lands, where development could result in the loss of productivity (such as watershed, aquifers and aquifer recharge areas, significant agricultural and grazing lands, forest lands)

--natural hazard lands, where development could endanger life and property (such as floodplains, areas with high seismic or volcanic activity, areas of unstable geologic, ice or snow formations);

* identify and regulate areas impacted by public investment (such as transportation, energy uses, water and sewer utilities, waste disposal facilities) where siting results in secondary land use demands;

* identify and regulate those large scale private developments (such as industrial parks, subdivisions, new communities, shopping centers, rural land sales and development projects) that may have substantial impact upon the physical, social and economic environment;

* provide for land development of more than local benefit (such as low- and moderate-income housing, recreational and open space uses) not provided by the private sector;

* acquire land for public use;

* require environmental, social and economic impact statements on major public and private developments.

Role of the Federal Government

The League supports federal policies and programs that will enhance the capabilities of other levels of government to plan and manage land resources by these means:

--give other other levels of government financial and technical assistance;

--collect, analyze and disseminate economic, environmental and social data;

--develop standards for planning and regulation of land resources by other levels of government;

--provide financial incentives for other levels of government to comply with standards;

--mediate in cases of interstate conflicts;

--invoke sanctions for those states and localities that do not comply with federal standards.

Coordination of Policies and Programs

To ensure full consideration of local, state and national interests in decisions about land resources, the LWVUS supports:

--development of mechanisms for decision-making that would involve all levels of government, public agencies, and public and private parties affected;

--development of ways to identify the scope of areas and activities of multi-state and national concern;

--review of federally funded projects by all governmental levels, for conformance with comprehensive plans at each level of government;

--conformance of federal land resource activities with approved state programs, where state standards are more stringent than federal standards;

--provision for an administrative appeals procedure in any arbitration process;

--procedures for mediation of intergovernmental conflicts.

people. Consider ways to use the skills of non-League people or "outside experts."

☐ Build a resource file: Look over the Resources section; gather relevant state (League and non-League) publications; check out local libraries (public, college, government).

☐ Establish close liaison with your state land use chairman, any regional Leagues' related program committees,and your League's Action and Publications chairmen.

☐ Develop a plan for the year, but stay flexible.

Although the local board is responsible for coordinating program, a local League might also find it useful to create an ad hoc task force or coordinating committee composed of intersecting interests, such as environmental quality, human resources and energy chairmen. This group could meet together periodically to plan joint study and action on issues of mutual concern.

LOCAL LAND USE ISSUES

Any action under the national position must be based--as always--not only on the applicability of local land use issues to the national position but also on the local board's evaluation of members' understanding and support on the issue in question. Although the local League board is not required to go back to the members each time specific action is taken, it should consider the need to provide members with additional information and the extent to which feedback is required.

If the action involves a considerable commitment of League resources and time the local board must determine whether such a commitment is justified.

Examples of specific local issues Leagues might act on under the national position include:

--land management tools such as comprehensive plans, zoning and subdivision regulation, planning and coordination of public services and their extensions (such as sewers, water supply, roads, etc), growth policies, data collection.

--specific siting proposals, such as shopping centers, residential subdivisions, new towns, parks and recreational areas, highways, industrial parks.

--conservation and planning for critical areas, such as coastal areas, forest lands, agricultural lands, wetlands, rare ecosystems, historic sites, earthquake and landslide zones.

Any one of these issues could involve action to support new legislation, monitor administration of existing programs, or seek remedy through administrative and/or judicial relief. Since court processes and procedures can be intricate, don't hesitate to seek legal advice on these matters. Refer to the LWVEF tools on litigation, listed under "Resources."

The national agreement does not speak to all issues and demonstrates the need to correlate local/regional/state positions with the national position. The national position does not:
--define state/regional/local relationships;
--set priorities in cases where goals conflict;
--specify how appropriate any particular land use tools may be in a particular situation.
These are issues that require the attention of state/local Leagues and inter-League groups.

LARGER-THAN-LOCAL ISSUES

Many local proposals have, of course, widespread or greater-than-local ramifications, though not necessarily statewide. Any League considering action on such major developments as a large-scale airport or an industrial park will want to consider the impact of the proposal on surrounding communities and to confer with neighboring Leagues.

On the surface, a proposed land use issue may look local, but its impact, on closer examination, may spill over local boundaries. In addition, many federal programs frequently encourage use of regional planning mechanisms, such as 701, air and water laws, and the Coastal Zone Management program (see Box on federal programs).

When in doubt whether your proposed action is larger-than-local, check with your state League and any formal or informal regional League groups in your area. They will be able to help you in determining what areas would be affected, and in arranging cooperation with other Leagues.
ILOs and other appropriate regional groupings of Leagues can all be used to begin to explore what opportunities for joint action in land use are in the offing, and where conflicts might arise. For further ideas on organizing for regional action, see the League handbook, In League, pp. 15-16, and the forthcoming Guidelines for Inter-League Work on Regional Problems. Such inter-League consultation and cooperation can often lead to creative solutions to complex problems and more effective action.

STATE LAND USE ISSUES

Your state land use chairman has an especially important responsibility to help local Leagues understand possibilities for action under national and state positions and to coordinate regional cooperation among local Leagues.

As land use decisions grew more complex and interrelated, interest in a state role for land use emerged. A number of state Leagues undertook land use studies and are already acting under state positions. Recognizing the critical role of the states and the need to facilitate vertical programming in land use, the LWVUS sent a memo to state League presidents in July 1974 suggesting optional questions on the state role in land use for member agreement. Your state League may have decided to use the questions to up-date existing state position, or to develop a new position.

SOME FEDERAL PROGRAMS WITH LAND USE IMPACT

Programs to Manage Federal Lands: The U.S. government owns and manages approximately one-third of the nation's total land area. Major federal land management agencies include the Forest Service, Bureau of Land Management, National Park Service, Fish and Wildlife Service, and Department of Defense. The federal government's use and management of these lands could become a model of quality land management for the rest of the country. Our broad national land use position relative to goals and standards, measures to ensure public participation and methods to coordinate government programs is as applicable to public lands as to other land. For added insight into pressing public land problems and opportunities for participation see numbers 1-5 of our new series LAND USE LETTER.

Coastal Zone Management Program: The Coastal Zone Management Act of 1972 sets up a program in the Department of Commerce to provide grants to coastal and Great Lakes states to prepare and administer land use programs. Although similar to the planning assistance programs proposed by the Jackson and Udall bills, CZM grants provide planning assistance for lands which have a direct and significant impact on coastal waters, while the Jackson-Udall proposals would provide assistance for lands outside the coastal areas. (For more, see the Resources section.)

701 Comprehensive Planning Assistance Program established under the Housing Act of 1954: This program provides grants-in-aid to localities, regional governments, states and Indian tribes to conduct comprehensive planning. Regulations require grantees to develop a "land use element" that integrates and coordinates present land use policies and planning activities. Administered by the Department of Housing and Urban Development, this program is a valuable source of planning monies for governments.

Clean Air Act Amendments of 1972: Administered by the Environmental Protection Agency, the Clean Air Act requires state and local governments to regulate "indirect sources" of air pollution (shopping centers, sports arenas for example) and develop transportation controls (such as improved mass transit or parking restrictions). State plans for the above cannot allow "significant deterioration" of air quality. (For more, see Resources section.) Since this law is just beginning to be implemented, Leagues could monitor for effectiveness.

Federal Water Pollution Control Act of 1972: This program, also administered by the Environmental Protection Agency, requires all point sources of pollution (such as sewage treatment facilities and industries) to reduce their waste discharge to meet specific water quality standards and establishes a permit system to regulate these discharges. Section 208 of the act requires long-range areawide plans for waste water treatment, and identification of any land use methods to control point and nonpoint sources (such as construction and agriculture) of pollution. The act also provides grants to construct treatment plants and sewers which can have considerable influence on overall development patterns (housing and commerical, for example).

Federal Aid Highway Program: Administered by the Department of Transportation, this program provides formula grants to state highway departments to construct the Interstate Highway system and to build primary, secondary, and urban roads and streets. Needless to say, this program, in conjunction with state and local road programs, has probably influenced land use patterns over the last two decades to a greater degree than other federal programs.

Housing and Community Development Act of 1974 (PL 93-383): This law consolidated a large number of separate programs at the Department of Housing and Urban Development by setting up a single grants-in-aid program to cities and urban counties to develop the community in a variety of ways--land acquisition, public works construction (including water and sewer facilities), urban renewal and housing rehabilitation. To be eligible, communities must submit a three-year development plan, relate programs to needs of low- and moderate-income persons and provide citizens with adequate opportunity to participate in development plans. (For more, see Resources section.)

Rural Development Act of 1972: This act sets up a program to provide grants, loans and technical assistance for rural housing and economic development, a land inventory and a monitoring program. Administered by the Department of Agriculture, the program was designed to encourage economic growth in rural areas. Leagues could monitor this program for its effect on prime farmland and the agricultural economy.

MONITORING THE ADMINISTRATION OF FEDERAL LAND USE PROGRAMS

An effective way to implement the national position is for local Leagues to monitor the administration of existing federal programs for their favorable/unfavorable effects on land use patterns and values. Monitoring is not a passive job. It ranges from watch-dogging program administration and expenditures to participation in public hearings on the planning and management of the project. A good example is the Coastal Zone Management program (listed in box) which needs strong participation by citizens in decision-making and implementation at state and local levels in order to succeed. The CZM regulations, in fact, require that specific public participation criteria be met in order to receive federal funds. Another example is the 701 Planning Assistance Program, listed in the box. Leagues (ILOs and other regional groups in particular) could participate in the administration of any 701-funded programs at their government level and monitor the grants to see that intended goals are realized.

The interaction among League program positions--particularly with reference to environmental quality, human resources and energy conservation--will be a consideration in implementing our land use position. Action on issues or programs that relate primarily to land use must be consistent with these other positions and can be strengthened by them. Action on legislation dealing primarily with other program areas can be reinforced and amplified by careful attention to the land use implications.

To focus your energies where they would be most effective, check out the box on federal programs that have a direct impact on land use (and also intersect in some cases with other program areas).

BUILDING COMMUNITY-WIDE SUPPORT: WHERE IT IS AT

Land use is proving to be a highly controversial and misunderstood issue. Grassroots community understanding is essential to the development of a land policy and land management programs; it is vital also to their implementation in specific land use decisions. Building this understanding could be one of the most valuable League endeavors, nationwide. The League with its diverse program interests and long experience in community affairs, could become the catalyst for greater

public discussion of land use questions and participation in land use decisions. Leagues, at whatever level, can provide information on the issues, answer some of the myths about land use programs, provide a forum for considering land use goals and the role of government, identify and seek to resolve some of the conflicts in land use goals and, above all, work toward a community atmosphere in which the benefits of better land management can be recognized and steps toward a land management program undertaken.

In the past, Leagues have been very creative in devising ways to involve the community in discussion of controversial public issues. The League handbook, In League, pp. 34-42, contains a wealth of ideas on how to reach the community through such means as the media, tours, public meetings, coalitions, publications and flyers.

In addition to the above suggestions, there are two techniques that can be applied to land use with special success.

☐ A photo or slide-collecting and showing project, with its visual dimension, could be a valuable way to involve the community. Pictures of beautiful urban and rural landscapes contrasted with misused land can evoke a recognition of the need for land use planning in your community, region or state. Leagues could show how a variety of development patterns can be satisfactory: high and low density; uniform versus mixed housing types; separate versus multiple uses. Programs developed around such illustrations alert the audience to possible land use problems and solutions. Members could take their own photos and slides, go to newspapers and libraries, planning offices, or find them in old collections. Presentations of exhibits could be developed for the community-at-large. As they say, "one good picture is worth a thousand words."

☐ Second, organize citizens' meetings/task forces to discuss and project what plans the public would like to see for the community overall or for a particular parcel of land. Such projects can attract publicity, involve the community, and spur city hall or the county board to think of alternative approaches. Stress community themes--a sense of neighborhood, protection of community values and traditions, revitilization of the inner city, unique landscape features, for example.

What kinds of land use questions need rational public discussion? Here are a few of the typical arguments put forth by those who oppose any form of land use planning--and counter-arguments that have had little airing in the public arena.

Private property rights and the public interest.

Discussion of this subject usually treats the issue as a case of either/or. "This is my land and I should do with it what I please!" or "Government regulation amounts to confiscation." A constructive approach would be to guide discussion in the direction of rights held by the public and what government can do to protect those "public" rights. The assumption that private rights pertaining to land are or ever were absolute is unfounded when viewed in terms of the history of our nation and legal system, where private property rights have always been limited by various controls. Another approach would be to distinguish ownership from rights of use. A person owns certain rights in land; the disposition of these rights (mineral, water, development, for example) has always been subject to the values and needs of society and the community, not the individual.

Government is not needed in land use planning.

"Private property owners can do a better job." "Too much bureaucracy." "The construction industry will be hurt." "Planning is socialism." "Graft and corruption will result." "Red tape will result." A variation of the previous theme, this argument assumes that all private use decisions are based on full knowledge of impacts, take into account all external factors, and seek to ameliorate negative impacts on adjacent properties. However, examples abound in which development decisions are made without regard to their impact (development of floodplains and earthquake zones, loss of prime farmland) or, indeed, their effects on the taxpayer who ultimately foots the bills. Consider the community services that are needed for any development (traffic, sewage treatment, etc.) and the problems to be avoided. Discuss what is involved in the concept "public health, safety and welfare." A better way to frame the discussion on this point is to ask, What role does government now have (directly and indirectly) in determining land use? What policies are needed to guide government action?

Land use planning is too expensive.

"We can't afford it in times of budget deficits and inflationary costs." "Our taxes will rise." As a matter of fact, unplanned growth has imposed an expensive burden on consumers (through, for example, the loss of prime agricultural land) and on taxpayers (through billions of dollars spent to save decaying cities and to finance public works programs). Remedial expenditures, the inevitable product of chaotic and unplanned growth, are much more costly and wasteful than expenditures for planning growth. Leagues could give information on the costs of unplanned growth in this country. Look for concrete examples in your own state and community.

Underlying all the arguments and counter-arguments is the basic question of who wins and who loses under present land management arrangements or proposed policies. Millions of dollars in land value increases depend on the route of a highway, the laying of a sewer, or the change of a zoning district. How would alternative land use policies affect the financial/tax gains and losses, and intangible benefits-losses of different groups in the area?

In short, land use is an issue on which we must be able to act at all levels of government if we are to be effective. The League of Women Voters has the potential to play a leadership role at the local, regional, state and national levels, if it pulls together its extensive work in related program areas and combines these efforts with its expert knowledge of the community. This is the challenge that the new national land use position presents to the League.

RESOURCES

These are the national publications you need to have to implement the national land use position. Order from: League of Women Voters, 1730 M St., N.W., Washington, D.C. 20036. All orders must be prepaid. See the catalog for League discounts.

Action Handbook. Guide for translating program goals into action, including legislative, monitoring and litigative action. 1972. 32 pp. #161, 50¢.

COMMITTEE GUIDE: Getting a National Perspective on Land Use Issues. This GUIDE provides resource committees with background readings, questions to be answered and ideas on how to develop a study for reaching decisions on land use. 1973. 6 pp. #267, 35¢.

CURRENT FOCUS: Clean Air: Costs and Trade-Offs. Cleaning up emissions while coping with energy shortages; how the dilemma appears to environmentalists and industry; outlook for Clean Air Act. LWVEF. 1974. 12 pp. #467, 60¢.

CURRENT FOCUS: Coastal Zone Management Program. Summarizes the CZM Act of 1972, the planning and federal assistance processes it sets up and citizen participation opportunities. LWVEF. 1975. 6 pp. #572, 35¢.

CURRENT FOCUS: Land Use at the State Level - The Growing Edge. Describes national proposals to aid states, important state land use laws, what state Leagues are doing and saying about land use. LWVEF. 1973. 6 pp. #292, 50¢.

DOCUMENTS: Background on National League Program 1974-76. Provides the statements of position and amplification for all national positions through May 1974. 1974. 22 pp. #521, 40¢. N.B.: LU position does not appear because next 1975 edition will carry it.

IN LEAGUE: Guidelines for League Boards. This is the basic "how-to" resource for every state/regional/local League board member. 1975. 61 pp. #275, $2.00.

Land Use: Can We Keep Public and Private Rights in Balance? Basic tool for exploring national land issues and roles of federal/state/regional/local government, with extensive bibliography. LWVEF. 1974. 31 pp. #585, 75¢.

LAND USE LETTERs. A series of topical reports on selected land issues.

No.1, Our National Forests: Can They Meet Future Needs?--discusses the conflicting demands for use of national forestlands; #583.

No.2, One-Fifth of Our Nation's Land: Leftovers or National Resource?--deals with lands managed by the Bureau of Land Management (BLM); #587.

No.3, One-Fifth of Our Nation's Land: How Should It Be Used?--also on BLM lands; #588.

No.4, Mining on Federal Lands--describes all aspects of mining on federal lands; #555.

No.5, Citizen Perspectives on Public Lands--airs issues of concern as reported in state League responses to a public lands questionnaire; #556.

No.6, What's New in Land Use Literature--an annotated bibliography of recent land use publications; #557.

Each issue of LAND USE LETTER costs 25¢. Suggestions for future topics are welcome.

LEAGUE ACTION SERVICE. This service which includes ACTION ALERT and REPORT FROM THE HILL will keep you up to the minute about legislation of League concern. ACTION ALERTs tell Leagues when it is time to act on pending legislation of importance to the League; R/H gives background and status of federal legislation. LAS is included in Presidents Mailing and is part of the DPM subscription. A year's subscription to LAS is $7.50. Order full subscriptions, which begin in January, before March 1. In particular, be sure to get a copy of the March 7, 1975 CONTINUING TIME FOR ACTION, which provided detailed guidelines for steps to be taken in preparation for action under national position on land use.

Going to Court in the Public Interest: A Guide For Community Groups. How to use litigation to achieve community goals, how to litigate on a small budget, how to find and work with a lawyer. LWVEF. 1973. 16 pp. #244, 25¢.

The Verdict Is In: A Look At Public Interest Litigation. Shows how and why Leagues have used litigation to protect the public interest. LWVEF. 1975. 16 pp. #536, 25¢.

RECENT STATEMENTS BY THE LWVUS ON LAND USE. (Order by publication number and by date; otherwise orders cannot be filled.) #538, 30¢.

Statement on HR 3510, "The Land Use and Resources Conservation Act of 1975," March 25, 1975.

Statement on S 984, "The Land Resources Planning Assistance Act of 1975," April 24, 1975.

Refer to Catalog for other appropriate EQ, HR and Energy statements.

Order from
League of Women Voters of the United States 1730 M Street, N.W. Washington, D.C. 20036
Pub No. 565--50¢

[1975]

Coastal Zone Management Program

The coastal zones of our country, along the oceans, the Gulf of Mexico, and the Great Lakes, are caught squarely on the horns of a man-made dilemma. We demand too much from these areas and understand too little about them. As a result, we are losing vast sections of varied and valuable ecosystems to the bulldozer and developer and to totally inappropriate and conflicting uses.

The few coastal areas that have been put aside for public use by government acquisition (local, state, federal) are subject to such intense recreational pressures that they sometimes seem to be in danger of capsizing from the sheer weight of sunseekers, swimmers, surfers, fishermen, skindivers, photographers, sailboats, motorboats, dune buggies, motorized homes, and hot dog stands...all ostensibly seeking a quiet, restful place to "re-create."

Yet over the past 25 years we have become more aware of and sensitive to the ecological importance of our coastal zones, which have been aptly termed "that fragile ribbon of life." It was Rachel Carson, perhaps more than any other individual, who called our attention to these tidal areas, wetlands and estuaries. Her scientific yet poetic writings, which culminated in *The Sea Around Us*, led a wide audience to see how human activity along coastal areas had been largely self-serving and irreparably damaging to fragile life systems.

PASSAGE OF THE CZM ACT

Concern for endangered coastal habitats triggered demand for protective legislation. Studies were authorized to serve as a basis for intelligent preservation of vulnerable coastal areas. Two reports were prepared by the U.S. Department of Interior: the *National Estuarine Pollution Study* (November 1969) required by the Clean Water Restoration Act of 1966 (P.L. 89-753) and done by the Federal Water Pollution Control Administration and the *National Estuary Study* (January 1970) required by the National Estuary Protection Act of 1968 (P.L. 90-454) and carried out by the Fish and Wildlife Service. Both studies reached environmentally-oriented conclusions and suggested that a comprehensive federal-state management system for coastal areas be established.

Publication of these two studies was anticipated somewhat by a third report, *Our Nation and the Sea*, sent to President Nixon (January 1969) by the Commission on Marine Science, Engineering and Resources, which had been created by the Marine Resources and Engineering Development Act of 1966 (P.L. 89-454). This study, usually called the Stratton report after the commission's head, was predicated on development of ocean resources. It stated, "The key to more effective use of our coastline is the introduction of a management system permitting conscious and informed choices among development alternatives...[for] this productive region in order to ensure both its enjoyment and sound utilization of its resources." The Stratton report proposed that federal relations with state coastal zone authorities be centered in a National Oceanic and Atmospheric Agency (NOAA), which at that time was envisioned by some of its proponents as a kind of "wet NASA" to undertake exploration of unknown portions of the oceans. This report, which powerfully influenced both conception and acceptance of a coastal management program, held "that the states must be the focus for responsibility and action in the coastal zone. The state is the central link joining the many participants."

In July 1969 Senator Hollings (D-SC) and Senator Magnuson (D-WA) introduced the first substantial bills for management of the coastal zone; greatly different proposals from the Nixon Administration followed. In the 91st and 92nd Congresses (1969-1972) discussion of coastal zone proposals continued, focused on three issues:

- Should coastal zone management legislation be enacted separately or be part of a comprehensive national land use law?
- Should the states or the federal government be in charge of coastal zone management, and which should bear the cost?
- Should the federal agency dealing with coastal zone management be in the Department of Interior with its previous record of environmental action or in Commerce with its pro-business reputation?

Just two weeks before adjournment of the 92nd Congress these issues were settled when the Coastal Zone Management Act was accepted by both houses and signed by the President on October 27, 1972, becoming P.L. 92-583. Implementation was delayed by fiscal skirmishes between the executive and legislative branches, but with help from several influential Congressmen, the Coastal Zone Management Act was fully funded in December 1973.

current focus

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NATIONAL POLICY UNDER CZM

The CZM Act resolved the second issue, i.e. which level of government, state or federal, should be in charge of coastal zone management, by providing federal encouragement to coastal states to voluntarily prepare and administer coastal zone management programs developed through a process that meets federal criteria.

Two kinds of federal incentives to foster state participation are built into the CZM legislation:

- Financial assistance goes to states to help them meet costs of developing and administering coastal zone management programs and to assist in acquisition of estuarine sanctuaries.
- Once the federal government approves the state management program all federal agencies conducting or supporting activities in the coastal zone must make them conform to the state plan to the maximum extent practicable.

Implementation of the CZM Act, the third issue, was assigned to the Secretary of Commerce, who delegated the actual responsibility to the National Oceanic and Atmospheric Administration (NOAA), which had been formed in October 1970 by Reorganization Plan No. 4 as part of the U.S. Department of Commerce. Robert W. Knecht, assistant administrator for Coastal Zone Management in NOAA, has pointed out that "the act, as passed, involved federal guidance and overview of the adequacy of the 'process' contained within a state's proposed management program rather than the substance of individual land or water use decisions."

To sum up, the CZM Act has made it national policy

- to preserve, protect, develop and, where possible, to restore our coastal resources
- to help states manage their coastal responsibilities wisely through the development of appropriate management programs
- for all federal agencies engaged in work affecting coastal areas to consult closely with the state agencies responsible for administering the coastal management programs
- to encourage cooperation among local, state and regional agencies.

ELIGIBILITY AND PARTICIPATION

There are 30 states eligible to participate in the coastal zone management program. Twenty-four of these border the Atlantic, the Pacific, or the Gulf of Mexico. Eight of the eligible states border the Great Lakes, much to the surprise of many who think of coastal areas and estuaries solely in terms of a salt-water environment. American Samoa, Guam, the Virgin Islands, and the Commonwealth of Puerto Rico are also eligible.

Some speculation arose as to how many states and territories would actually participate on a voluntary basis given the uncertain public reaction to the concept of land use management. Officials at the CZM Office are pleased with the current level of participation: each of the 30 states has chosen to undertake the initial phase, as have Guam, Puerto Rico, and the Virgin Islands.

REWARDS FOR PARTICIPATION

Federal financial aid for much of the cost, first of preparing (program development grants) and later of carrying out (administrative grants) the coastal zone management program, is the spur to state and territorial participation. For both kinds of grants the matching formula is 2/3 federal and 1/3 state. Application for federal funding must be made annually and grants are awarded for one year. The CZM Act sets June 30, 1977 as the date when authority to award either kind of grant will expire. The level of any future federal funding and the method and amount of allocations will be reconsidered when Congress re-evaluates the coastal zone management program before June 30, 1977.

For program development grants (sec. 305) the basic allocation to a state depends on the length of the state's shoreline and the population living on or near the coast; to this can be added discretionary amounts based on a state's specific coastal problems. The allotment formula gives California and Alaska by far the largest combined federal and state financing for program development: California's first year total was $1,648,653; Alaska's, $960,000.

Congress authorized $9 million annually in program development grants for FY '73 and '74 and $12 million annually for FY '75, '76 and '77. Congress appropriated nothing for grants in FY '73, but some money was available for a five-person task force to set up the program. In FY '74 $7.2 million was appropriated and utilized for enlarging the staff and beginning the grants. For FY '75 $9 million was appropriated and this will be allocated by June 1975.

Administrative grants (sec. 306) are to be allotted on the basis of the extent and nature of the shoreline, the area covered by the state's CZM plan, the population in that area, and other relevant factors. For administrative grants Congress authorized $30 million annually for FY '75, '76, and '77, 2 1/2 times the amount authorized for program development grants. Congress appropriated $2.1 million for FY '75; the Office of CZM will be considering grant applications from Washington and Maine during the last three months of this fiscal year.

For estuarine sanctuaries (sec. 312) a 50/50 matching formula is written into the law, with the proviso that the federal share for acquisition of any one estuarine sanctuary is not to exceed $2 million. For FY '74 Congress authorized $6 million for a one-year sanctuary program, however only $4 million was appropriated. In January 1975 an amendment (P.L. 93-612) extended the time for using the $6 million through FY '77.

These sanctuaries are not solely for conservation purposes. They are to serve as natural field laboratories for education and research. Studies are to be made of the natural processes occurring within estuaries and estuary-like waters (e.g. Great Lakes). To date, one estuarine sanctuary grant has been awarded, to Oregon, with matching federal funds of $823,000. By March 1975, Georgia, Michigan, New York, Ohio, South Carolina, and Wisconsin had applied for estuarine sanctuary grants.

The federal consistency provision in sec. 307 (c) offers prospect of some state control over federal projects, licenses, and permits within the coastal area and thus provides a second inducement for formulating

a state management program in ways that will meet the approval of the Secretary of Commerce. During the process of program development, each federal agency with interests in the coastal area has the opportunity to consult with the state agency developing the management program. After the state's plan is approved, each federal agency undertaking any development project in a state's coastal zone or conducting or supporting activities directly affecting the coastal zone shall do so in a manner that is, to the maximum extent practicable, consistent with the approved state management plan.

In the interest of national security, however, section 307 (c)(3) provides that federal licenses and permits can be granted for land and water use activities not consistent with the state program. The decision to override the state program rests with the Secretary of Commerce and the Office of Management and Budget. On March 27, 1975, President Ford named Rogers C.B.Morton, then Secretary of Interior to the Commerce post. On February 5, 1975, James T. Lynn, former Secretary of HUD, was confirmed as Director, Office of Management and Budget.

THE PROGRAM DEVELOPMENT PROCESS

Because applications for first-year program development grants call for detailed information,some states must undertake much more preparatory planning than they had originally anticipated. Before a program development grant can be approved, a state must provide

- A summary of the state's past and current activities regarding coastal zone management
- A ranking of major coastal-related problems and issues facing the state with identification of goals and objectives to be achieved by a management program
- The governor's designation of a lead agency and a list of all agencies to be involved in the development of a management program and the work to be accomplished by each unit involved in the process
- A detailing of work to be done in developing the management program, along with identification of existing sources of information, methods of assuring public participation, methods of inter-governmental cooperation, mechanisms to coordinate with federal lands excluded from state jurisdiction, approximate boundaries of the coastal zone
- Submission of an annual work program, data and studies to be used, manpower requirements, time schedule, costs
- Identification of any other federal, state, or local activity that might have a significant effect on the coastal zone, with methods of achieving coordination and cooperation.

Second and third-year program development grant applications must show further refining, establishment of certain criteria and priorities, precise mechanisms needed to achieve planning integration, exact definition of coastal boundaries, and revisions of that state's coastal zone planning goals or program in the light of current problems or opportunities.

Like many other applications for federal grants, the annual applications for CZM program development grants must be routed to state and local agencies for review and comment as required by Circular A 95 of the Office of Management and Budget. The CZM Office finds that the total review and approval process for an annual program development grant takes about four months.

States differ in their approaches to program development. Some states require special permits for coastal development until the state's overall management plan is developed. California comes to mind immediately, with the creation in 1972 of the California Coastal Zone Conservation Commission. Delaware has taken action to control industrial development in its coastal areas. But even those states that have chosen to allow coastal development to continue while the state carries on its comprehensive inventory and its study of existing coastal resources feel a sense of urgency about developing and implementing their program management plans as quickly as possible. Time is never on the side of the planner.

As a result of strong ongoing state programs (California, Washington, North Carolina, Michigan, Oregon, Maine), several states are much further along with coastal zone planning than are others. A few states have already submitted drafts of their coastal zone management programs to the CZM Office (Maine, Washington, Oregon, and California for San Francisco Bay). But most states will probably need the full three years to develop a workable program.

APPROVAL CRITERIA

On January 9, 1975, the CZM Office published the final rules and regulations concerning program approval and administrative grant applications. These regulations specify that before an administrative grant is awarded to a state, its CZM program must designate:

- Coastal zone boundaries: Determination of the inland boundary and the extent of the territorial sea or of state waters in the Great Lakes; identification of transitional and intertidal areas, salt marshes, wetlands, and beaches; identification of all land owned or held in trust by the federal government.
- Permissible uses: Determination of land and water uses having a "direct and significant" impact on coastal waters and identification of those uses that seem permissible. States should develop a method for assuring that use decisions are made in an objective manner, applying the best available information concerning land and water capability and suitability. The development of indices for determining environmental and economic impact (beneficial, benign, tolerable, adverse) is suggested as an essential analytical step needed to give substance and clarity to those uses which are deemed permissible. When a state prohibits a specific use within the coastal zone, it must give its reasons.
- Areas of particular concern: Inventory and designation of the following: areas of unique, fragile habitat or of historical or scenic significance; areas of high natural productivity or essential habitat for living resources; areas of recreational value; areas where developments and facilities are dependent on utilization of, or access to, coastal waters; areas of unique geologic significance; areas of urban concentration; areas of significant hazard from storms, slides, flood erosion, subsidence; areas needed to protect, maintain, or replenish coastal lands, including coastal flood plains, aquifer recharge areas, sand dunes, coral and other reefs, beaches, offshore sand deposits, and mangrove stands.

- Areas for preservation: This designation is closely linked to the areas of particular concern. A state must establish standards and criteria for designation of coastal areas intended for preservation and restoration because of their conservation, recreational, ecological, or esthetic values. The fact that a state may be unable to move ahead with the acquisition of certain of these properties because of temporary funding difficulties should not prevent the state from designating these areas in order of priority.
- Priority uses: Priority guidelines should be set forth, indicating the degree of state interest in the preservation, conservation, and orderly development of specific areas throughout the coastal zone. This designation of priorities will provide the basis for regulating land and water uses in the coastal zone and serve as a common reference point for resolving conflicts. A state must show that a method has been developed for 1) analyzing state needs that can be met most effectively and efficiently through land and water uses in the coastal zone and 2) determining the capability and suitability of meeting these needs in specific locations of the coastal zone.
- State control: The management program must show that the state can control each permissible land and water use and preclude those not permissible. The application should list relevant state constitutional decisions and other appropriate documents or actions that establish the state's legal basis for such controls. It is the state's responsibility to develop the "means" of control, that is, to have the legal capability to implement the objectives, policies, and individual components of the management program.
- Organizational structure: No specific organizational structure is required. The CZM Office is interested only that the state develop an organized and unified program and propose a coherent management structure to implement the state's proposed coastal zone management program.

In addition to these guidelines from the CZM Office, four additional requirements of sections 306 and 307 are important to approval of state coastal zone management programs.

- Siting of facilities: The states must recognize the necessity of siting facilities (see table) that are of greater than local concern and consider them early in the development of the management program. The CZM Act does not compel the states to site any particular type of facility--even one of national interest--but the CZM Office must receive assurance that such facilities are not arbitrarily excluded or unreasonably restricted.
- Consulting and coordinating: The federal agencies listed in the table have been identified as those that may have an interest in a state's CZM program. Therefore they should be consulted early on. The states should identify areas of unresolved conflicts and methods it will use in attempting to solve them. The states should recognize the necessity for working closely with local and regional planning agencies, as well as federal agencies, to avoid conflicts and ambiguities among plans and proposals. A regular mechanism for consultation will be needed to assure coordination of all levels of planning.
- Involving people: the coastal zone management program must document methods used to involve the public in discussion and to receive public input during all stages of development of the management plan.
- Controlling pollution: The Federal Water Pollution Control Act as amended and the Clean Air Act as amended are basic elements in a state's coastal zone management program. A state should plan to meet all pollution control requirements and to provide for continuing coordination and cooperation with clean air and water programs during subsequent administration of the management program.

PROBLEMS AHEAD

Two specific sections of the CZM Act have come under considerable scrutiny in the past few months. Interrelated, they are growing in importance because of our nation's energy problems. These sections are 306(c)(8), dealing with the national interest in siting facilities, and 307(b), the federal consistency provision.

REQUIREMENTS WHICH ARE OTHER THAN LOCAL IN NATURE AND IN THE SITING OF WHICH THERE MAY BE A CLEAR NATIONAL INTEREST

	Requirements	Associated facilities	Cognizant Federal Agencies
1.	Energy production and transmission.	Oil and gas wells; storage and distribution facilities; refineries; nuclear, conventional, and hydroelectric powerplants; deepwater ports.	Federal Energy Administration, Federal Power Commission, Bureau of Land Management, Atomic Energy Commission, Maritime Administration, Geological Survey, Department of Transportation, Corps of Engineers. *
2.	Recreation (of an interstate nature)	National seashores, parks, forests; large and outstanding beaches and recreational waterfronts; wildlife reserves. **	National Park Service, Forest Service, Bureau of Outdoor Recreation.
3.	Interstate transpgtation	Interstate highways, airports, aids to navigation; ports and harbors, railroads.	Federal Highway Administration, Federal Aviation Administration, Coast Guard, Corps of Engineers, Maritime Administration, Interstate Commerce Commission.
4.	Production of food and fiber	Prime agricultural land and facilities; forests; mariculture facilities; fisheries.	Soil Conservation Service, Forest Service, Fish and Wildlife Service, National Marine Fisheries Service.
5.	Preservation of life and property	Flood and storm protection facilities; disaster warning facilities.	Corps of Engineers, Federal Insurance Administration, NOAA, Soil Conservation Service.
6.	National defense and aerospace	Military installations; defense manufacturing facilities; aerospace launching and tracking facilities.	Department of Defense, NASA.
7.	Historic, cultural, esthetic and conservation values.	Historic sites; natural areas; areas of unique cultural significance; wildlife refuges; areas of species and habitat preservation.	National Register of Historic Places, National Park Service, Fish and Wildlife Service, National Marine Fisheries Service.
8.	Mineral resources	Mineral extraction facilities needed to directly support activity.	Bureau of Mines, Geological Survey.

* Energy Research and Development Administration and Nuclear Regulatory Commission have replaced the Atomic Energy Commission in column 3

** Literature should be added to column 2

Source: Federal Register, vol.40, no. 6, part I, p. 1688, Jan. 8, 1975

Facility siting

Most of the concern about the national interest in siting facilities relates to proposals for the Outer Continental Shelf (OCS). If the Administration's proposed program for accelerated leasing, exploration, and development of potentially oil-rich OCS areas with the accompanying construction and operation of the various associated onshore facilities (storage, terminals, processing plants, refineries) is carried out, roads, port facilities, housing, schools, sewers, water supply, hospitals, fire and police protection and other services will also be needed. All these changes will have major social, economic and environmental impacts on the coastal zone.

States nearest to the tracts under consideration for leasing have responded with grave concern insisting that there must be rigorous environmental and socio-economic safeguards, meanwhile attempting to complete their CZM programs as quickly as possible.

Several developments bear watching for their repercussions on coastal zone facility-siting problems.

■ The proposed Energy Independence Act of 1975, which the Administration submitted early this year, has been questioned by the Departments of Interior and Commerce, EPA and CEQ, and by the Hill. The bill is vague (some say deliberately so) in stating that "such facility siting shall be compatible with land use and coastal zone programs 'to the extent possible'." (No "maximum extent practicable" in this bill!) A question immediately springs to mind: Does the Administration intend a federal override on energy facility siting, despite plans that may have been adopted by the states?

■ In March 1975 the U.S. Supreme Court decided against the 13 petitioning states and ruled that the federal government had jurisdiction over the OCS beyond the three-mile limit, thus confirming the federal government's right to set the ground rules for OCS oil production. Two days after the Supreme Court ruling, the General Accounting Office (GAO) released a report critical of the Administration's accelerated leasing program. The National Ocean Policy Study's (NOPS) recent report, prepared with help from the staff of Congress's Office of Technology Assessment, found that the Administration's leasing program ignored critical coastal state concerns. (NOPS, created by Senate Resolution 222 early in 1974, is headed by Senator Ernest F. Hollings (D-SC) and has a large senatorial guiding committee How will the resolution of this clash between energy and marine interests, which is reflected in congressional committees, affect the coastal zone?

■ Bills to amend the CZM Act, specifically addressing the problem of OCS development and its impact on the coastal zone have been proposed. The main one is S.586, introduced by Senator Hollings (D-SC) to amend the CZM Act of 1972. Hollings' bill calls for up to $200 million annually for five years beginning in FY '76 for a Coastal Impact Fund to help states plan for and control the adverse impacts of offshore oil and gas development and energy facility siting. This bill also supports coastal zone research, interstate cooperation, and beach access and island preservation. By adding "lease" to "federal license or permit" in section 307(c)(3), S.586 proposes to extend the federal consistency provision to OCS leasing.

Federal consistency

Section 307(b), on the relationship between federal agencies and state CZM programs, is the second part of the CZM Act getting more than its share of questioning. Individuals experienced in dealing with a variety of federal agencies can appreciate the misgivings one state legislator felt about this section when he predicted, "We will be embarking on a long bureaucratic odyssey."

Odyssey or not, federal consistency in programs and planning is called for in the CZM Act, and further explained in the final regulations published in the *Federal Register* of January 9, 1975: "Coordination implies a high degree of cooperation and consultation among agencies, as well as a mutual willingness on the part of the participants to accommodate their activities to the needs of the others in order to carry out the public interest. Perceptions of the public good will differ and it is recognized that not all real or potential conflicts can be resolved by this process. Nevertheless, it is a necessary step."

A recent example of coordination is the agreement the CZM Office and the Office of Community Planning and Development (HUD) signed on February 19, 1975. They agreed that HUD will accept approved state CZM programs as meeting the minimum land use requirement necessary for states to remain eligible in the HUD Comprehensive Planning Assistance (701) Program.

Both agencies will participate in reviewing state CZM and 701 program applications and will work to establish procedures to facilitate development of both programs.

In order for the concept of federal consistency to become a positive factor in a CZM program, each state will probably need to establish some means of monitoring the activities of all federal agencies involved in its coastal area. Effective coordination will depend on a high degree of cooperation among agencies, and the CZM Office will assume a mediating role if necessary. Here the questions are many-sided: Will section 307 prove strong enough to be an enduring bulwark against increased federal pressures on the coastal zone? To what extent will state interests diminish the mission-oriented goals of the federal agencies?

PLANNING WITH PEOPLE

The Coastal Zone Management Act raises many difficult questions, but most of the answers can be found by talking to the right people--the citizens who live in the coastal states. For if a coastal zone management program is to succeed, it must be fully understood, accepted, and supported by those individuals most directly affected. And citizen input and scrutiny are essential parts of responsive and responsible governmental decisions.

The crucial time for citizen input is right now when state efforts are still in their early stages. The place for most effective public participation is at the state level during the management-program development process. It is at this stage that the crucial choices of coastal zone boundaries, permissible and priority uses, geographic areas of particular concern, means of state control, organizational structure, and funding are made.

Provisions for citizen participation at all stages of development of a state's management program are written strongly and clearly into the CZM Act and its regulations.

■ Public hearings must be held as part of the development of the management program. Although more than one public hearing is not required, full and effective opportunity for public consideration of every portion of the state plan must be provided.

■ Hearings should be held in geographic areas principally affected by decisions on the issues under consideration;hearings on the total management program should be in places within the state where all citizens of the state may have an opportunity to comment. At the time the hearing is announced all relevant agency data must be available for review in the locale where the hearings are to be conducted.

■ Notice of public hearings should be given as far ahead as practical but never less than 30 days in advance. Notice should be in news media designed to inform the public in the communities affected, not just in the legal notices. Hearings should be scheduled for seasons of the year when the most persons likely to be affected are present.

■ A comprehensive summary of the hearings should be made available to the public within 30 days after their conclusion.

■ Other means of public participation are recommended--including citizen advisory committees, mechanisms that involve citizens in the development of goals and objectives, and processes by which citizen groups and the general public can review elements of the state program, and arrangements for exchange of data, information and reports among government agencies, special interest groups, and the public at large.

Public input can become an integral and increasingly valued part of the planning process for coastal zone management. But when the provision for citizen participation is examined, we suddenly realize that it carries with it a high degree of citizen responsibility. It is up to us to

■ Become familiar with the basic federal requirements of the CZM program

■ Learn from the person in charge of developing our state's program its status and problems

■ Find out where and when public hearings on the development of the state program will be held. Urge other citizens and organizations in our community to participate

■ Encourage our state to explore and use a wide variety of ways to involve the public and take part in them ourselves.

Unless we each care enough to enter into the fray as concerned citizens, the coastal areas we prize so highly will be destroyed, lost to us forever for the uses we now cherish.

RESEARCH AND TECHNICAL SUPPORT AVAILABLE FROM NOAA

OFFICE OF COASTAL ZONE MANAGEMENT: Responsible for administration of CZM Act; also administers the marine santuaries program (under P.L. 92-532) which has designated the sunken U.S.S. MONITOR as the first marine sanctuary. Contact:OCZM, Page Building #1, 3rd Floor, 2001 Wisconsin Ave., N.W., Washington, D.C. 20235.

OFFICE OF SEA GRANT: University research aimed at coastal zone problems among a variety of interests; this past year has involved 150 colleges, 700 research projects, $20 million in federal funds, with additional state and private funding. Bulk of research carried on by designated "Sea Grant Colleges:"

Oregon State University	Texas A&M University
University of Washington	University of California at San Diego
University of Wisconsin	
University of Rhode Island	University of Hawaii

Contact: OSG at same address as OCZM

NATIONAL OCEAN SURVEY: Contains elements of U.S. Lake Survey; coastal mapping and charting, geodesy, hydrography.

SUGGESTIONS FOR FURTHER READING

COASTAL ZONE MANAGEMENT ACT as amended, P.L. 92-583. P.L. 93-612.

Coastal Zone Management Program Development Grants. FEDERAL REGISTER, v. 38, No. 229, pp. 33043-33051, November 29, 1973. Final regulations.

Coastal Zone Management Program Administrative Grants. FEDERAL REGISTER, v. 40, No. 6, pp. 1683-1695, January 9, 1975. Final regulations.

Berg, Dixie R. *How North Carolina Came to Pass a Coastal Zone Act.* MARINE TECHNOLOGY SOCIETY JOURNAL, December 1974.

Brennan, William J. *Balancing Man's Demands of the Sea and Shore.* NOAA MAGAZINE, January 1975.

Hollings, Ernest F. *Will We Save Our Coasts?* SIERRA CLUB BULLETIN, June 1974.

Above material available free from Office of Coastal Zone Management, Page Building #1, 2001 Wisconsin Ave., N.W., Washington, D.C. 20235.

Council on Environmental Quality. OCS OIL AND GAS-AN ENVIRONMENTAL ASSESSMENT. 214 pp. April 1974. Available free while supplies last from CEQ, 722 Jackson Place, N.W., Washington, D.C. 20006. Or order from Superintendent of Documents, U.S. GPO, Washington, D.C. 20402, Stock No. 4000-00322. $2.90.

Soucie, Gary. *We Can Still Save Salt Marshes of Georgia, Carolina.* THE SMITHSONIAN, pp. 82-89. March 1975. 900 Jefferson Dr., S.W., Washington, D.C. 20560. $1.

U.S. Coastline is Scene of Many Energy Conflicts. CONSERVATION FOUNDATION LETTER, 8 pp. January 1974. Order from Conservation Foundation, 1717 Massachusetts Ave., N.W., Washington, D.C. 20036. $1.

WHERE RIVERS MEET THE SEA. LWVUS Pub. No. 367. 8 pp. February 1970. Available free while supply lasts from LWVUS, 1730 M St., N.W., Washington, D.C. 20036, if a self-addressed stamped envelope is enclosed.

Researched and written by Mary Lee Strang, LWVEF Committee on Environmental Program & Projects, assisted by Lois Sharpe, staff coordinator of the Environmental Quality Department.

ORDER FROM League of Women Voters of the U.S., 1730 M St., N.W., Washington, D.C. 20036
Pub. # 572, 35¢.

The Onshore Impact Of Offshore Oil

current focus

Plans are underway to make the Continental Shelf—a swath of submerged land surrounding the U.S. coastline — the scene for a larger-then-ever treasure hunt for offshore oil and gas. These plans to tape yet untouched stretches of the Outer Continental Shelf (OCS) may result in new supplies of oil and gas for our cars, homes and industries, but they are posing a serious challenge to coastal regions and communities.

The crucial question is: How can *onshore* changes caused by *offshore* development be effectively anticipated and managed? In addition to apprehensions about oil spills and polluted beaches, concerns have been expressed that coastal communities will be unable to plan for and suitably accommodate a surge of onshore activities such as drilling rig and platform construction; pipeline location; storage tank farms, refineries, petrochemical complexes; and the necessary schools, sewers, roads and other public services associated with population growth.

Although the total area of the OCS is approximately one-third the size of the United States, to date, only a small portion (12 million acres) has been leased for development by the federal government, mostly off Louisiana and Texas. Congress, the Administration, coastal states and localities, the oil industry, conservation and public interest organizations are focusing attention on the OCS, its oil and gas potential, and the impacts resulting from new development:

- ☐ How much oil and gas can be economically recovered?
- ☐ What kind of impacts will result from expanded offshore development and what risks are involved?
- ☐ Do state and local governments have the capacity to plan for and guide onshore development?
- ☐ Since OCS oil and gas resources belong to the public, how can the average citizen be involved in vital decisions concerning the OCS.

This CURRENT FOCUS will survey some of the onshore issues emerging from plans to increase OCS oil and gas production and will examine proposals for changes in the OCS leasing process as well as new mechanisms to plan for onshore development.

Offshore Oil And Gas: A Complex Problem

The full extent of U.S. offshore oil and gas reserves is unknown. In 1974, the OCS supplied 10 percent of domestic oil production and 15 percent of domestic gas. A recent study (1975) by the U.S. Geological Survey (USGS) estimates that between 20 percent and 40 percent of future U.S. oil and gas resources could be recovered from OCS regions.

However, the amount of recoverable reserves in OCS frontier areas (areas not yet explored but considered suitable for leasing) are unknown, since no actual drilling has taken place at these sites. The varying estimates (by the National Academy of Science and USGS) have been based solely on interpretation of general geological data. In recent years, the estimates have been consistently revised downward. The latest (1975) by the USGS, an agency of the Department of Interior, indicates that the total undiscovered recoverable OCS oil may be 10 to 49 billion barrels instead of the 65 to 130 billion barrels estimated in 1974 or the 200 to 400 billion barrels previously estimated.

Nevertheless the OCS continues to loom importantly in the hopes of those seeking to augment dwindling domestic oil and gas production from established fields and in the concerns of those who see adverse environmental or other impacts as a result of widespread offshore drilling.

Accelerated OCS Leasing

In 1974, as a key part of "Project Independence," the President announced plans to accelerate OCS oil and gas leasing on a large scale. The orginal goal was to lease 10 million acres in 1975. Delays, however, already have put the timetable behind schedule; 7 million acres were offered for sale and 1.7 million acres actually leased in 1975. According to the Department of Interior, the new goal is to hold six sales per year, including sales in all "frontier" areas, by 1978.

The first lease sale, covering 1.5 million acres off southern California, was held in December. (However, only 310,000 acres were actually leased.) The first "frontier" area sale involving 1 million acres in the eastern Gulf of Alaska is planned for February 1976, although strong reservations have been expressed by federal environmental agencies. Seven OCS sales are possible in 1976. See chart on OCS leasing schedule for details.

Since only 12 million acres have been leased from the start of federal OCS leasing in 1954, these plans could herald major changes. And our experience with other OCS areas is limited: nearly all of the oil and gas produced from the OCS today comes from an area lying off the coast of Louisiana and Texas.

What's Involved in OCS Leasing?

Congress established a federal oil and gas leasing program through the Outer Continental Shelf Lands Act of 1953. Here is how leasing works under the OCS Lands Act and, since 1969, the National Environmental Policy Act (NEPA).

Resource Evaluation

The first step in the long chain of events leading to the award of a lease is to determine general areas to be opened for leasing. The Bureau of Land Management (BLM), an agency in the Department of Interior, chooses the general areas on the basis of resource potential, ease of development and environmental risk. BLM is required to seek the advice of the USGS on the first point. In practice, the submissions of oil companies are heeded as well, because of their expert knowledge of the potential and practicability of development in various regions. Later, federal and state agencies are asked to evaluate the effect of drilling on other valuable resources in the area. These reports are used to collect data and to pinpoint potential conflict with, for example, navigational routes, valuable fishing grounds or military use.

Call for Nominations

Next, the director of BLM selects the general leasing areas and publishes in the *Federal Register* a "call for nominations" of specific tracts, (each tract no larger than 5,760 acres) within the area that prospective bidders would like to have offered in the lease sale. Any person, association of persons, states or their subdivisions, or private, public or municipal corporations may nominate a tract for lease. In conjunction with the call for nominations, the public, including the states adjacent to the area, may comment on the area under consideration, including tracts that should be withheld from leasing. After receiving nominations, BLM and USGS make a tentative selection of specific tracts.

League of Women Voters Education Fund
1730 M Street, N.W.,
Washington, D.C. 20036

OCS Regions of Interest for Oil/Gas Exploration

Source: U.S. Office of Technology Assessment

Status of OCS Leasing Schedule (as of January 1976)

So. California (sale No. 35):
- Draft EIS .....May 1975
- Public hearing .....Jul. 1975
- Final EIS .....Oct. 1975
- Sale Held .....Dec. 1975

Gulf of Alaska (sale No. 30):
- Final EIS .....Nov. 1976
- Sale .....Feb. or Mar. 1976

Mid-Atlantic (sale No. 40):
- Draft EIS .....Dec. 1975
- Public hearing .....Jan. 1976
- Final EIS .....Apr. 1976
- Sale .....Jul. 1976

MAFLA, Gulf of Mexico (deep) (sale No. 41):
- Final EIS .....Dec. 1975
- Sale .....Feb. 1976

North Atlantic (sale No. 42):
- Draft EIS Jan.1976
- Tentative sale date . .Aug. 1976

South Atlantic (sale No. 43):
- Draft EIS .....Apr. 1976
- Tentative sale date . .Dec. 1976

Gulf of Mexico (sale No. 44):
- Draft EIS .....Mar. 1976
- Tentative sale date . .Oct. 1976

Cook Inlet, Alaska .....date uncertain

Environmental Impact Statement (EIS)

A draft EIS (required by NEPA) is then prepared on a sale-by-sale basis, with an examination of data covering such factors as geology, climate, biological environment, oceanography, tides, currents, storms, navigation routes, fishing grounds, beach-oriented recreation. The draft EIS is made available for public review and comments at public hearings advertised in the *Federal Register* and other media to give interested parties an opportunity to state their views. A final EIS is prepared. (In addition, an overall EIS was prepared when the 10 million acre leasing program was first announced.)

Lease Sale

At least 30 days after the final EIS is published, the Secretary of Interior decides whether to hold the sale and, if affirmative, which tracts to offer for leasing. Tracts with high environmental risk may be withdrawn or special stipulations may be attached to any lease. The lease sale is announced in the *Federal Register*. At the time of the sale, bidders make a sealed cash offer, called a "bonus bid." BLM has another 30 days to award the lease to the "highest responsible qualified bidder" — or to reject any or all bids if they are too low in relation to the appraised market value.

Estimates of the amount of oil or gas on the tract are made by USGS from geological and geophysical data purchased from private exploration companies or supplied by industry. The successful bidder receives a five-year lease granting exclusive right to explore the tract and, if oil is found, to produce as much oil and gas as possible for as long as mineral production continues. Each lease requires conformance with USGS general operating regulations and special OCS orders for each leasing area, such as drilling procedures, spill prevention, pollution controls, and safety devices. The lease contains the amount of annual "rent" ($3 per acre) that must be paid until production begins and the amount of "royalty" (a percentage of the market value of production). The royalty may be no less than 12½ percent and has been set at 16⅔ percent for the OCS.

Exploration and Development

After BLM awards the lease, USGS assumes the responsibility for supervising the operations according to regulations, OCS orders and any other special lease requirements.

First, a plan showing the location of exploratory wells and the method for exploratory drilling must be approved by USGS, with special attention to preventing blowouts, sudden surges of gas or oil pressure that could cause loss of control of the well and possible ignition. After discovery of a commercially-viable field, a development plan must be submitted covering such factors as future exploratory and development wells; selection, construction and assembly of the production platform; the number of wells; and transportation of the oil or gas to shore. Preparation and approval of a development plan can take from one to two years. After development operations begin, USGS is responsible for inspections and pollution monitoring.

A number of other federal agencies have a regulatory role: the National Oceanic and Atmospheric Administration (for protecting ocean fisheries, administering the Coastal Zone Management Act and providing scientific information), Environmental Protection Agency (for pollution controls), U.S. Army Corps of Engineers (for preventing obstruction of navigation), U.S. Coast Guard (for safety requirements on drilling rigs and platforms and for spill containment), and U.S. Fish and Wildlife Service (for inland fish and wildlife). See section below on "Who Is Responsible."

The Timeline

The process from the call for nominations to the actual award of the lease can take as long as a year. An additional three to eight years may elapse before significant production can be expected—if indeed any oil or gas is found. Thus the call for nominations issued in November 1974 for the OCS off the coast of Alaska is not expected to result in the award of leases until February 1976 at the earliest, assuming no futher delays such as litigation. If commercial quantities of oil and gas are found early in the exploration, one estimate places first production at 1984 and peak production in 1996.

Emerging Issues

The prospect of greatly increased OCS development has set off debate over three major public issues — environmental protection, fair share of revenues for the public and coastal impact. The degree of concern arises in part from the federal government's lack of information about its offshore resources and about the social, economic and environmental consequences of their development.

Environmental Dangers

The Santa Barbara blow-out and oil spill in 1969 produced such a public outcry that offshore leasing outside the Gulf of Mexico ceased while the government reevaluated its policies regarding stiffer regulations and stricter enforcement. Environmentalists hold that oil spills are inevitable, no matter how strict the safeguards may be. Potential damage to marine life and coastal-dependent economies warrant cautious leasing, they say.

The lack of information about environmental effects of drilling and related activities, even if there are no accidents, is another concern of environmentalists. For example, little is known about the effects that continuing low levels of oil discharge from pumping operations may have on marine ecology. Environmental groups have pressed for more scientific data so that the public can make more knowledgeable comment at EIS hearings and other occasions for public participation. BLM has recently stepped up a program of "baseline studies" of oceanographic data to help evaluate, before leasing, the impact of drilling operations during development.

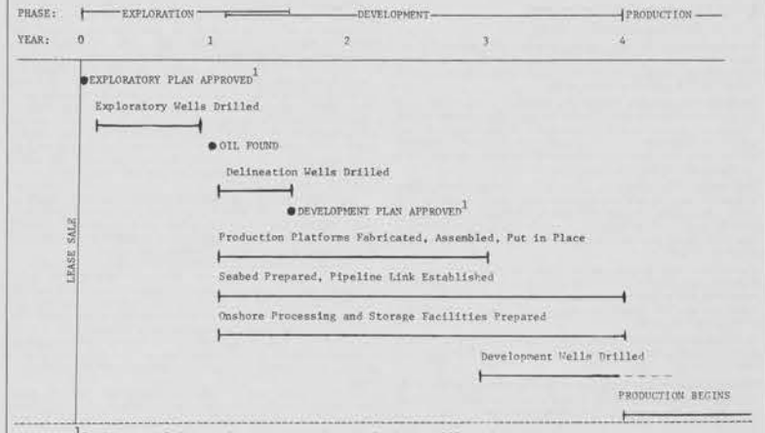
These studies plus a monitoring program allow a comparison of biological, geological, chemical and physical oceanographic data before and after drilling to see if drilling produces changes in the marine environment. However, these programs have drawn criticism because they cover a small portion of a lease site and do not analyze the more vulnerable nearshore coastal environment.

What is the Continental Shelf?

The Continental Shelf is a gently sloping plateau of land that starts at the coastline and runs seaward to a point where there is a sharply defined drop toward the ocean floor. The width of this shelf varies from one coastal area to another. It can be several hundred miles wide in the Bering Sea off Alaska; in the Gulf of Mexico, it is about 60 miles wide; it extends off the Atlantic coast for approximately 40 miles and narrows to 20 or less miles off the Pacific coast.

Ownership rights to the innermost 3 miles of the Continental Shelf are with the adjacent states (except for Texas and Florida, which due to historic boundaries own a portion up to 9 miles out). Beyond the 3-mile belt and out to a distance of 200 miles, the federal government has assumed jurisdiction over the Outer Continental Shelf and its resources, according to international convention. The U.S. is working on a Law of the Seas treaty to extend sovereignty officially to 200 miles.

HYPOTHETICAL OCS DEVELOPMENT SCHEDULE AFTER LEASE SALE IS HELD



[1]Environmental Impact Statement may be required, at USGS option.

NOTE: This flow chart depicts the time sequence involved in the development of a hypothetical OCS oil field. For purposes of clarity, we have simplified an admittedly complex and variable series of events with the following assumptions: 1) in this case, commercial quantities of oil are found 1 year after the lease sale; 2) capital and equipment are readily available; 3) production begins 4 years after the lease sale.

Source: Coastal Zone Management Office, NOAA, COASTAL MANAGEMENT ASPECTS OF OCS OIL AND GAS DEVELOPMENT, 1975

Revenues: The Public Share

The cash bonus paid by the high bidder, the annual rent and the 16⅔% royalty are intended to reflect the public's fair share of the market value of the oil and gas produced. The U.S. Treasury receives all OCS oil and gas revenues, and in 1974, the federal share was $7 billion. Yet concern is being expressed in Congress and by some economists that this system may fall short of bringing a fair return to the public treasury under an accelerated leasing program. Suggested changes in the bidding system include reducing the large initial cash bonus, thereby making more funds available for exploration, allowing smaller firms to compete, and at the same time increasing the public's return. See "Proposals for Change" below.

Basic to the problem of ensuring a fair return to the public is that the government does not know exactly what it has to sell nor what to charge until after the rights have been sold. Despite whatever preliminary data the government can acquire, no one knows for sure whether oil exists on a tract until exploratory drilling takes place. The first well is not drilled, however, until after the tract is leased — giving the lessee the right to extract and sell any oil or gas found.

Even after oil is discovered, only an estimate can be made of the full extent and value. As an example, in a 1974 sale in the Gulf of Mexico where drilling has been going on since 1954 some of the high bids have been as much as ten times the government estimates — and a few many times greater. Regulations have been proposed requiring industry to provide more information on results of preliminary exploration. (*Federal Register*, April 22, 1975). Some have even proposed that the government contract for exploratory wells in promising areas before the lease sale in order to obtain a better evaluation of public resources.

Coastal Impact

The lack of specific information on the size of offshore oil and gas reserves before OCS leases are let also affects the information available to coastal communities for planning future related onshore development. About one issue, however, there is no doubt: major change *will* take place in coastal regions near any commercial oil or gas field. Impacts will vary from one area to another and from one stage of development to another, but impact there will be, both positive and negative — especially in rural areas); on population, employment, housing, local economy, and tax base; on such government services and facilities as schools, roads, police and fire protection, water and sewer capacity.

Anticipating these effects and planning for them is a matter of serious concern in states and localities nearest the proposed federal OCS leasing areas. The following section will examine in greater detail onshore development needs in relation to offshore leasing.

What Will Happen Onshore?

Just what effects can coastal regions near the new OCS frontier anticipate? Since the exact extent of recoverable oil and gas is unknown, communities must look ahead to economic, social and environmental impacts that may never come (if no oil is found) or to sudden surges of development (if a large oil or gas field is discovered).

The experience from longtime offshore drilling in the Gulf of Mexico provides little help in predicting onshore development in other U.S. areas, because the offshore industry and onshore support facilities grew at a slow, gradual pace, over a 30-year period. In addition to more rapid development schedules, future OCS frontier areas may be adjacent to denser populations (the Alantic coast) and have more severe physical environments (rough waters and cold temperatures in the north Atlantic, earthquakes off California and Alaska). For these reasons, many are looking to Scotland and the North Sea for models of what might come. There, within five years of discovery, coastal communities with no oil history have experienced the rapid development that may face U.S. coastal communities for the first time.

During Oil Exploration

Onshore impacts relating to OCS exploration will likely be minimal—if the impact comes to an already developed community. But even seemingly minor impact can be major indeed to a rural community in South Carolina or an Eskimo village in Alaska.

What installations are required? Port services, for exploration, and supply boats constitute the major activity: staging areas (bases) to receive and shuttle workers, equipment and provisions to the rigs. Housing for off-duty crews, support personnel and their families, office and storage space and repair facilities also are needed. Some communities near harbors could provide sites for building drilling rigs or could later become major oil refining centers if oil is found. If not, the mini-boom could soon end as industry's interest in exploring the offshore waters wanes.

A recent projection of the current OCS leasing program underway for mid-Atlantic states suggests that three mobile exploratory rigs will move into the Baltimore Canyon Trough off New Jersey and Delaware in 1977, about six months after the lease sale. The number could increase to five or ten by 1981, depending on the success of exploration. Each rig would have a crew of 110 as well as a support crew of 65 to operate bases and service boats. Total employment in 1977 would be about 525 and could increase to 1000 within two years. Major installations could include five 30-acre inland staging areas near rail facilities and fifteen 3-acre staging areas adjacent to coastal harbors.

During Development

Discovery of oil signals the beginning of an oil boom and a rapid change of scene in some communities. Regional variations will depend on the size of the oil/gas find, extent of existing facilities, proximity of markets, and rate and type of development. For instance, Alaskan offshore oil will probably be shipped to west coast facilities for processing; on-site refineries are unlikely. In New England, oil and gas may be used more for fuel than for supplying petrochemical plants.

The development period is generally the time when decisions with long-range consequences are made under pressure for rapid growth. Huge drilling platforms must be constructed, oil refineries and gas processing plants built, pipelines laid, storage tank "farms" developed, tanker ports readied, and petrochemical and other oil-related businesses started up. Construction employment peaks during the development period.

The direct effects of oil-related activities are only the tip of the iceberg, however. Aberdeen, formerly a picturesque fishing and university city with a diverse economy, has become the oil capital of Scotland. As the oil economy moved in, so did a spectrum of other needs and services for a growing population. Housing was a serious problem, made worse by a severe inflation in land prices. Housing construction lagged because local construction workers went to work for the new oil-related construction; outside construction workers could not be brought in in sufficient numbers — because they had no place to live! Jobs in many other needed services also went unfilled because of the housing shortage.

Contrary to general expectations, not all local residents benefited from the job boom, because many of the jobs had to be filled by employees imported for their specialized skills: the Texas drawl joined the Scottish burr on the job, on the streets, in the pubs, in the schools. Inflation made it harder for residents who did not join the oil rush to make ends meet. Public schools became overcrowded. Scarce arable land was lost to industry and housing. More air and water pollution accompanied the increase in population and industry.

The authors of an important study (*Onshore Planning for Offshore Oil* by Pamela and Malcolm Baldwin) concluded that the rapid-growth impacts can be more easily absorbed in urban areas with a diversity of business and industry. But some of the onshore locations required for oil activities are rural in character. Despite the impacts Aberdeen has faced, even greater changes must be anticipated in such a remote and rural setting as the Shetland Islands, chosen as the site for a major deep water port and field of storage tanks.

A local economy will be affected not only by the investment and employment of the oil industry itself but also by the many private businesses needed to support the new industry and spiraling population. Each stage of oil development requires some more housing, offices, stores, banks, hotels, restaurants, basic public services (such as roads, airports, schools, utilities, police) and all the other facilities that the employees and their families will need. Many communities are hard put to expand such services and facilities, especially since local tax revenues always lag behind the heavy public investments that accompany development.

As noted earlier, the job market for local residents does not necessarily grow apace with development, because of the specialized labor needed for oil technology. It may even deteriorate, if the traditional economy of the area is adversely affected by oil growth — farm land may be taken out of production; commercial fishing may be impaired; beach recreation and resort business may diminish; or labor, lured to higher oil wages, may be priced out of reach of traditional enterprises.

As more land shifts into intensive development the environmental scene also undergoes changes. Environmentalists are particularly concerned that planning for onshore facilities and other development take into account wetlands, fragile beaches and dunes, wildlife habitat and historic areas. Wetlands, valued as spawning ground for many kinds of marine life and habitat for water fowl, have been destroyed by developmental pressures. For instance, some 500 square miles of wetlands have been lost along the Gulf of Mexico during 30 years of state and federal offshore leasing as a result of dredging and filling for pipelines and other oil-related facilities.

During Production

After the drilling platforms are constructed and in place . . . the pipelines laid . . . port facilities prepared . . . refineries and other oil-related industrial complexes built . . . housing and auxiliary services for employees and their families constructed . . . the development boom slackens. The refinery that took thousands to build may take only a hundred to operate. After the construction workers for these and other facilities are no longer needed, population will level off or decline during the production phase of the oil or gas field.

Ultimately, of course, the field will be depleted; any community now anticipating oil activity must also anticipate the end of oil activity and ways to convert its land and facilities to new uses. Already in Louisiana, for instance, declining offshore oil production is pointing up a need to plan for decreased dependency on an oil economy.

Where Will Onshore Growth Go?

Some onshore growth will necessarily occur in the coastal region close to the production site; other development could occur at a distance from the production site or even outside the coastal region. Changes may involve an economic boost to a depressed New England industrial city, or a shift from a farm-fishing-tourist economy to an oil economy in a small southern coastal town, or perhaps the appearance of a whole new city on a largely undeveloped and rugged Alaskan coastline.

The Council on Environmental Quality (CEQ) has ranked the proposed new leasing areas according to the risks they would pose to the marine, coastal and human environment. The greatest environmental risk is in the Gulf of Alaska, the area off the southeast Atlantic coast, and the northern portion of the Baltimore Canyon Trough nearest Long Island and New Jersey. The southern portion of the Baltimore Canyon Trough and the Georges Bank Trough off New England present less, but not to be dismissed offhand, risk.

CEQ also has made projections of some specific onshore impacts to be expected in each region. (A caveat: The CEQ Study was based on high 1974 USGS oil and gas resource estimates. CEQ warns that the following projected figures may be too high in view of current lower resource estimates.) In New England, the projection foresees major local growth in a county such as Bristol, Mass., where up to 19,000 new jobs may exist by 1985, although the number could drop by the year 2000. The potential strain on small historical villages and 30,000 acres of wetlands suggests the wisdom of locating as much development as possible in established cities and transmitting oil and gas to refineries and processing plants in suitable inland locations, according to CEQ.

It is the danger of oil spills that makes oil drilling in the northern part of the Baltimore Canyon Trough a risk. Two rural southern New Jersey counties, one of which has heavily used recreational beaches, are considered the likely initial locations for mid-Atlantic state activity. High oil or gas discoveries could create up to 30,000 new jobs, increasing local employment 30 percent by 1985. The associated growth would place as many as 32,000 acres under development. The region contains wetlands and salt marshes that serve as prime nesting and feeding areas for waterfowl on the Atlantic flyway, which would be endangered by land development or oil spills.

The wide, largely undeveloped beaches and estuaries along the southeastern Atlantic coastline also suggest to CEQ that onshore industrial sites be directed inland. The prime candidates for oil economy centers in this region are Charleston, S.C., or Jacksonville, Fla. High impacts could double the population of Charleston in 10 years, and add 37,000 new dwellings. Such impacts could be more easily absorbed by Jacksonville, already geared for growth, says CEQ.

Since Alaskan offshore oil will be transported elsewhere, the greatest industrial growth associated with Alaskan oil production will be experienced in such centers as Puget Sound and San Francisco. Although Anchorage will probably be the center for Alaska's oil economy, some sparsely settled coastal areas could experience multifold growth to support offshore operations even though actual employment or population numbers may seem minimal.

Who Is Responsible?

The tangled web of government roles and responsibilities is particularly complex in relation to OCS leasing and development.

State and Local Role

It is the federal government that is implementing plans for OCS development, but it is the state and local governments that must plan for the onshore impacts. States and localities have the authority to permit, obstruct, or properly guide development within their jurisdiction. Land management techniques such as zoning or building codes and pollution control measures are among the mechanisms state and local governments *could* use to influence onshore development, but exercise of such powers has often lagged in the face of strong developmental pressures.

The differing attitudes of states and localities toward OCS development and the nature of the onshore impacts, including uncertainties about where the oil may be found, indicate the complexity of interests. Some communities are seeking the economic boost they anticipate from development. Others are resisting any development that would disrupt their traditional economy, way of life, or environment.

Coastal planning needs to have a broader base than any local community — or even state — can provide. That one state's plan can affect another already is being demonstrated: New Jersey is receiving proposals for heavy industry that appear to be a result of neighboring Delaware's prohibition against such industries in its coastal zone.

The Coastal Zone Management Act of 1972 (CZM program) provides financial incentives for states to inventory and to assess their coastal areas for the preparation and administration of a coastal management program. All states potentially affected by OCS activity have entered the CZM program which is administered by the National Oceanic and Atmospheric Administration (NOAA), Department of Commerce. Each state is preparing a land management program for the coastal zone under a process that must designate:

- ☐ permissible uses in the coastal zone,
- ☐ areas of particular concern,
- ☐ areas for preservation,
- ☐ priority uses for specific areas,
- ☐ potential sites for facilities of greater than local concern.

In this last category sites for energy production and transmission must be considered by states in developing their CZM programs. Such sites might be for refineries, gas processing plants, storage tanks, pipelines or deepwater ports.

Once the federal CZM office has approved the state's program for managing its coastal zone, then each federal agency must ensure that its activities are consistent with the state plan "to the maximum extent practicable." (The only exception would be when the Secretary of Commerce determines a federal activity to be in the "national interest.") Recently there has been some question whether federal leasing on the OCS — outside state jurisdiction — comes under this CZM consistency provision; legislation has been introduced to coordinate these programs (See CZM Act Amendments below).

Federal Role

CEQ has characterized federal responsibilities in OCS regulation and coastal management as "fragmented, overlapping, with competing objectives." The partial outline below supports this evaluation.

- ☐ The Department of Interior grants and administers oil and gas leases for the OCS. BLM supervises lease sales and sets up regulatory requirements, while USGS oversees development of a tract once it has been leased.
- ☐ The Army Corps of Engineers (Department of Defense) issues permits for any use of navigable waters, including dredging or filling associated with offshore development.
- ☐ The Secretary of Commerce, in addition to administering the CZM Act, may designate marine sanctuaries on the OCS for the preservation of recreational, ecological and aesthetic values.
- ☐ The U.S. Coast Guard (Department of Transportation) has responsibility for regulating navigation and safety on the high seas, including regulating and monitoring OCS structures for safety and oil spills.
- ☐ The Environmental Protection Agency (EPA) regulates ocean dumping and discharge levels of pollutants offshore. Onshore, EPA regulates air, water and noise pollution as well as solid waste management.
- ☐ The Federal Power Commission must approve and regulate gas pipelines and set the wellhead price of OCS gas.
- ☐ The Federal Energy Administration licenses energy facilities, with regulations for siting and construction.

A Need for New Mechanisms

How can these diverse missions and responsibilities at the federal level be coordinated with one another and with state and local responsibilities both offshore and onshore? How can rational decisions be made on OCS and coastal zone uses where so many potentially conflicting interests exist? CEQ urged that mechanisms be developed to identify and to resolve divergent objectives expeditiously and fairly. States, localities, and citizens need a vehicle to represent their interests with the multitude of federal agencies responsible for the OCS. As the first step in the direction of federal-state cooperation, the CZM Act can provide states with help to prepare coastal zone plans and to coordinate OCS leasing with onshore plans. But what more can be done? Below are some changes that Congress is considering.

Proposals for Change

Several legislative proposals now under consideration would, if enacted, make major changes in the OCS leasing procedure, give the states, localities and citizens a stronger role in decision-making and provide financial assistance for onshore impacts related to OCS development. In 1975 the Senate passed a bill amending the OCS Lands Act of 1953 (S 521, Sen. Jackson, D-WA) and another amending the CZM Act of 1972 (S 586, Sen. Hollings, D-SC). The House of Representatives is considering nearly identical bills (HR 6218 and HR 3981, both introduced by Rep. John Murphy, D-NY).

Bureau of Land Management Outer Continental Shelf Regional Offices

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Anchorage, AK 99510

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6 World Trade Center, Suite 600 D,
New York, NY 10048

Gulf Outer Continental Shelf Office,
1001 Howard Ave., The Plaza Tower,
Suite 3200, New Orleans, LA 70113

Pacific Outer Continental Shelf Office,
200 N. Los Angeles St., Los Angeles CA 92012

OCS Leasing Amendments

S 521 as passed by the Senate provides for:

A comprehensive five-year leasing program to be prepared by the Secretary of Interior. It must show the size, timing and location of leasing activity and take into account economic, social and environmental values both in the OCS and in the coastal zones.

Regional OCS advisory boards. The Secretary of the Interior *must accept* the advice of the regional board or coastal state governor regarding size, timing or location of a lease sale and regarding a proposed development or production plan — unless there is an overriding national interest. The current national OCS board has coastal state governors and six citizens appointed by the Secretary of the Interior.

Separation of the exploratory phase from the development phase of a lease. Each lessee's plan for development and production is subject to a formal EIS. The plan must include information about onshore impacts, as well as on the OCS, thus giving states and citizens a chance to assess potential impacts and deal with conflicts before development is started.

More information about the extent of oil and gas resources — by authorizing the Interior Department to contract for or buy geological information and by requiring holders of exploratory permits and leases to report findings. The department may contract directly for exploratory drilling up to $500 million.

Unlimited oil spill liability. A special fund created by a 2½¢ fee on each barrel of OCS oil would allow commercial fishermen and resort owners to recover damages quickly.

Testing a wide variety of alternative bidding systems. One method would include a leasing system in which various firms could bid on a share of oil or gas in a large geological structure, rather than on a tract.

A corollary bill, H.R. 6218 is under consideration by the House Select Committee on the Outer Continental Shelf.

CZM Act Amendments

S 586 as passed by the Senate provides for:

A Coastal Impact Fund to supply loans and 100 percent grants up to $200 million annually for three years to help states plan and fund efforts to ameliorate net adverse effects resulting from major energy development in the coastal zone and for necessary public facilities and services.

Additional automatic grants up to $100 million annually for three years to ameliorate adverse impacts of OCS activities or related energy facilities. Such grants are tied to the volume of gas or oil landed in the state and/or produced off its shores.

Eligibility requirements for impact grants. States must be receiving grants under the CZM act, must be making satisfactory progress and must coordinate impact grants with the state's CZM program.

A clear definition that OCS leasing is subject to the consistency requirement of the CZM Act. Coastal state governors must certify that OCS leases are consistent with state CZM programs.

Encouragement of interstate cooperation by authorizing interstate compacts and 90 percent annual grants of $5 million through 1985 for coordinating activities.

An increased federal share of funds for CZM programs from the present 66⅔ percent to 80 percent increased authorization for CZM program development grants from $12 to $20 million a year and administrative grants from $30 to $50 million a year.

H R 3981, after consideration by the House Merchant Marine and Fisheries Committee, has been reported to the full House for a final vote. If approved, it will go to a conference committee for reconciliation with the Senate-passed version.

The questions before the nation, as the OCS treasure hunt picks up momentum are: Do current leasing policies and procedures assure that the public will receive a fair share of the market value, that safety and environmental provisions are adequate, that social and economic impacts will be considered? Can we plan with sufficient precision in order that the nation can make use of this publicly-owned energy source and at the same time keep adverse impacts from overwhelming coastal areas? Will the coastal communities and states be ready?

In Congress, in federal agencies, in coastal state capitals and communities, decisions are being made that will determine the answers. These decisions affect not only those in the coastal areas but *all* citizens. What are the ways you can make your voice heard? The laws affecting offshore leasing and coastal zone management have some points of entry for citizen participation.

The current OCS leasing process provides two opportunities for public participation: (1) in the call for nominations, citizens may cite particular tracts that should receive special consideration or be withdrawn; (2) at the public hearings following publication of the draft EIS. A valuable opportunity to participate in comprehensive onshore planning efforts is available to citizens of coastal states: The CZM Act requires citizen involvement throughout the development and management of each state CZM program including decisions on permissible uses, areas of particular concern, priority uses, facility siting, organizational structure, and funding.

If you want to be involved, watch the *Federal Register* (available in most libraries) and local press for notice of the call for nominations and public hearings. Keep in contact with the BLM regional office in your area. You can find out about opportunities to participate in CZM planning by contacting your state CZM coordinating agency.

Legislative proposals to amend the OCS and CZM acts would, if passed, provide several new points of entry for the public. The OCS proposals would require additional EIS evaluation; establish a method for state and citizen review of offshore development plans: and authorize the collection of more information on oil/gas resources. The CZM amendments would require coordination between OCS leasing and state CZM programs (with its emphasis on public participation) and provide new funds to strengthen state CZM efforts. Your representatives in Congress can supply you with copies of pending legislation.

Public understanding and input are critical *now* — when the decisions are being made that will affect the future of the nation's coastal regions.

Suggested Reading

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Order from League of Women Voters of the United States
1730 M Street, N.W., Washington, D.C. 20036 Pub. No. 661, 40 ¢

Energy and Our Coasts: The 1976 CZM Amendments

current focus

In Alaska wages have risen dramatically since the coming of the pipeline, but many Alaskans feel the quality of life is deteriorating. In Rhode Island offshore drilling is welcomed as a way to cut the double-digit unemployment rate, while in Massachusetts fishermen fear oil exploration will harm cod-spawning grounds on Georges Bank. In New Jersey they worry about preserving remaining wetlands if oil pipelines come ashore.

How can coastal states and communities prepare for changes like these, which may result from energy development on or near their coasts? How can they protect fragile environments from damage by oil rig construction, pipeline digging, construction of needed highways, power plants or ports? How can communities afford the additional schools and hospitals and fire protection that may be required? Can they plan to avoid the bust that often follows the boom?

Two federal programs have been designed to help with these problems — the Coastal Zone Management (CZM) Program and the Coastal Energy Impact Program (CEIP). All 30 coastal states plus Puerto Rico, the Virgin Islands and Guam are now taking part in the CZM Program established by the federal Coastal Zone Management Act (CZMA) of 1972. All are therefore eligible for funds from the CEIP created by the 1976 amendments to that law. The 1976 legislation (P.L. 94-370) also adds new provisions to strengthen the existing program. Together, the two programs give states tools for protecting valuable social, economic and environmental resources while new energy resources are developed. The goal: to ensure that future energy activity in the coastal zones does not ask too much of those who live and work near it.

This CURRENT FOCUS reviews the chief provisions of the 1976 amendments, identifies opportunities for public involvement and suggests ways for citizens to monitor the CEIP.

The Coastal Zone Management Program — as amended

The program prior to 1976

The CZM Program gives states federal help to prepare and then administer management programs that will "preserve, protect, develop, and where possible . . . restore our coastal resources" (see LWVEF CURRENT FOCUS, *Coastal Zone Management Program* for a fuller description).

Section 305 States are eligible first for Sec. 305 planning grants to develop a program that must, 1) identify coastal zone boundaries and major coastal-related problems; 2) devise a method for determining which uses require guidance because they have a direct and significant impact on the coastal zone; and 3) designate environmentally fragile or unique zones as areas of particular concern, including priorities of use within these areas. The governor must delegate responsibility for the CZM Program to a single state agency, and a state must have authority to implement the program, including a permit system or other method for controlling land and water uses in the coastal zone.

Section 306 The Office of Coastal Zone Management (OCZM), the agency in the U.S. Department of Commerce that administers the coastal management laws, reviews the proposed state management program and prepares an Environmental Impact Statement. If OCZM approves the program, a state is then eligible for Sec. 306 funds for implementation. As of May 1, 1977, OCZM has approved the programs of Washington state, the San Francisco Bay Area segment of California and the Culebra segment of Puerto Rico (states may opt to develop a program in geographical segments). It expects to review three more state programs in 1977 (including the rest of California), 11 in 1978, 12 in 1979 and one in 1980. The remaining states have no projected review date at this time.

The new provisions

Section 305 Under the 1972 law, states were eligible for up to three annual grants to prepare a management program. The 1976 amendments revise Sec. 305 so that states are now eligible for up to four basic planning grants, and states have until September 31, 1979 to apply. The federal share has been increased from 66⅔ percent to up to 80 percent. $20 million annually has been authorized for FYs 77-79 (i.e., Congress has said that *up to* $20 million may be available for planning grants if Congress appropriates the money; *authorization* of funds sets a funding ceiling for the program; *appropriation* of funds actually provides the money).

As amended, Sec. 305 now also requires that state programs include a planning process for:

- providing public access to or protection of beaches or other valuable public coastal areas,
- assessing the effects of shoreline erosion and identifying ways to control it,
- identifying energy facilities likely to be located in or significantly affect the coastal zone — and anticipating and managing the impacts from these facilities.

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Section 305½ In addition, states may apply for "preliminary approval" grants (also known as Sec. 305½) under the basic Sec. 305 authorization. "Preliminary approval" funds a state to begin carrying out certain portions of its program before it gets final approval from OCZM. These Sec. 305½ grants are meant for states that have completed the design of their management programs but are experiencing delays in passing required state legislation, are waiting for local governments to prepare sections of the coastal plan in accordance with state guidelines, or are completing needed interagency agreements. States that have had four Sec. 305 basic planning grants and are still unprepared to seek final approval from OCZM may also apply. To get 305½ funding, a state must satisfy OCZM that once the delay is over the overall program will meet OCZM requirements. Further, the state must get final approval in a specified time, usually not to exceed two years.

Section 306 Once OCZM gives final approval to a state management program, the state is eligible for Sec. 306 administrative grants to carry out the program. The 1976 law has augmented the authorization for Sec. 306 funds from $30 million to $50 million per year for FYs 77-80. As with the development grants, the federal share has been increased from 66⅔ percent to up to 80 percent. The CZMA requires ongoing consultation among the local, state and federal levels of government. The 1976 amendments elaborate on mechanisms for this intergovernmental cooperation. Sec. 306 now requires, as part of the local-state consultation process, that a state notify a local government whenever the state intends to institute a major CZM policy that may be in conflict with a local zoning ordinance. Examples might be state actions restricting wetlands dredging or requiring that new residential developments along the shoreline provide public access to the water. The local government has 30 days to comment, during which time both the state and local governments are obliged not to take any action related to the proposed state policy.

Section 307 One of the most controversial sections of the CZMA has been Sec. 307, which requires a state to consider the "national interest" in developing a management program. In return, federal actions must be consistent whenever feasible with the state's approved program. The 1976 law amends Sec. 307 by including Outer Continental Shelf (OCS) energy exploration, development or production as federal actions subject to the consistency requirement.

A new Section 309 gives 90-percent federal matching grants to interstate agencies or two or more states to coordinate coastal planning and programs. The grants may be used for any activities that are eligible for funding under Sec. 305 or 306 and that affect the contiguous coastal area of two or more states. The annual authorization is $5 million for FYs 77-80.

A new Section 310 allows the Secretary of Commerce to undertake programs of research, technical assistance and training to support state management programs. The secretary may make 80-percent federal grants to the states to help pay for these activities. The annual authorization is $10 million for FYs 77-80.

A new section 315(2) provides grants for acquiring land to provide access to public beaches or other public coastal areas of environmental, recreational, historical, esthetic, ecological or cultural value. The federal share is 50 percent, and the annual authorization is $25 million for FYs 77-80.

The Coastal Energy Impact Program: Section 308

The most important amendment to the CZMA is Section 308, which creates the Coastal Energy Impact Program. The CEIP is designed to help states minimize the social, economic and environmental disruptions that result from new or expanded coastal energy activity, especially oil and gas exploration and development on the Outer Continental Shelf (see LWVEF CURRENT FOCUS, *The Onshore Impact of Offshore Oil*, for a more detailed treatment of the effects of OCS activity). By helping states to plan for and provide needed new public facilities and services while preventing or reducing "unavoidable" losses of environmental or recreational resources, the program is intended to balance the need for more energy resources with the need to preserve our coastal areas for the myriad of other valuable functions they perform.

CEIP Allotments of the Fund and Formula Grants by Region Under P.L. 94-370 ($ millions)

	Atlantic	Pacific	Alaska	Gulf of Mexico	Total
Coastal Energy Impact Fund	93	68	557	82	800
Formula Grants	56	43	112	189	400
Total	149	111	669	271	1200
% share	12.4%	9.2%	55.8%	22.6%	100%

Although the Great Lakes states are included in the CEIP, OCZM at this point in time expects little in the way of energy impacts or CEIP assistance there. Over half of the $1.2 billion will go to Alaska and one-fifth to Louisiana, since approximately 90 percent of the energy activity in the Gulf is located off Louisiana. If, however, unexpected reserves are discovered off Atlantic or Pacific coasts, the proportions will change.

To be eligible for CEIP funds, states must either be participating in the federal CZM program or be independently developing one that is consistent with the intent of the federal CZMA. The CEIP gives four kinds of financial aid to coastal states and local communities affected by new energy activity:

1 *grants to plan* for the new public facilities and services required as a result of new energy activity;

2 *loans and bond guarantees* to provide the needed public facilities and services;

3 *loan and bond repayment assistance* to help communities with fiscal obligations that they are unable to meet because anticipated revenues did not materialize;

4 *grants to prevent, reduce or repair "unavoidable" loss* of environmental or recreational resources.

The CEIP attempts to deflect the consequences of energy development away from the coast itself. Energy facilities are encouraged not to locate in the coastal area unless technical requirements force them to do so. CEIP assistance can be used for new public facilities located outside the coastal zone, if they will serve the increased population and traffic drawn to the area by new coastal energy activity. "Energy activity" as defined in the regulations includes OCS and liquefied natural gas energy activity, as well as the transportation, transfer or storage of coal, oil or gas.

Funding

Money for the grants, loans and guarantees comes from two interlocking sources. OCZM *allots* the money to states; the states in turn *allocate* the funds to local communities.

The Coastal Energy Impact Fund (the Fund), for which Congress has authorized appropriation of $800 million until October 1, 1986, is to be used to plan and provide public facilities and services required as a result of *all* new coastal energy activity.

Formula grants provide additional money (up to $50 million annually until September 30, 1984) to states to help them mitigate the impacts of *OCS* activity (total authorized: $1.2 billion). The grants may be used only after a state has exhausted its Fund allotment and after offshore leasing begins (exception: formula grants are the primary source of funds for environmental projects). Allotments are determined by taking the total appropriated formula grant funds for any given year and dividing it among the states so that:

- ☐ one-third of the total is divided in proportion to acreage leased offshore in the preceding year;
- ☐ one-sixth of the total is divided in proportion to the amount of oil and gas produced in the OCS acreage adjacent to each state in the preceding year;
- ☐ one-sixth of the total is divided in proportion to the amount of oil or gas first-landed in each state in the preceding year; and
- ☐ one-third of the total is divided in proportion to the number of new individuals in each state who find employment in OCS activities.

How is the money used?

When new energy facilities are built, communities may suddenly find increasing demands being made on their public facilities, such as roads, schools and hospitals, by the new employees and their families. CEIP money helps communities prepare to meet these increased demands.

For planning

Depending on congressional appropriations, the Fund, the primary source of planning grants, provides up to $25 million to be distributed among all affected states over 10 years. The federal share cannot exceed 80 percent. Planning grants from the Fund are given based on a formula that identifies anticipated energy facilities and the expected population growth and environmental changes that may occur. Formula grant funds can also be used for planning directly related to OCS activity. The grant pays for all planning costs.

Planning grants can help state and local governments prepare general studies of the potential consequences of siting or actually constructing and operating new energy facilities. Such studies may consider the effect of energy activity on population; employment patterns; demand for public facilities, services, and housing; the local cost of living; the local tax base; public safety; the fishing or tourism industries; air and water quality; and resources such as beaches, dunes, marshes. Funds can also be used to help local governments plan for and manage the provision of specific public facilities and services, to develop methods for protecting environmental or recreational resources, or, if necessary, to force the liable party to pay for environmental losses. Finally, funds can be used to adapt or build upon the process developed by a state for anticipating and managing energy impacts (a required component of state CZM programs) through site-specific energy facility planning.

Since the 1976 amendments were passed, any lessee of OCS lands off a state with an approved coastal management program who submits to the Secretary of the Interior a plan for oil or gas exploration, development or production must certify that the activities will be consistent with the state CZM program. Such a plan helps states with approved management programs to plan for OCS activity, but most states do not yet have an approved program. If OCS legislation now before Congress is passed (S. 9 introduced by Senator Henry Jackson of Washington and H.R. 1614 introduced by Congressman John Murphy of New York), all communities affected by OCS energy activity would receive information to help them plan for all the impacts of offshore energy activity, from exploration through production.

For public facilities and services

To help states and localities finance the new public facilities and services, the CEIP offers loans and bond guarantees to states and local communities whose traditional lending sources are unavailable or who choose not to use them. The state allotments from the Fund (Congress has authorized a total of $750 million over 10 years for loans, bond guarantees and loan repayment assistance) are based on a formula that considers the expected increase in employment and population due to increased coastal energy activity and regional cost variations for new public facilities.

The additional public facilities and services may be used for education, environmental protection, government administration, health care, public safety, recreation, transportation and public utilities. For instance, CEIP funds can help finance new day care centers, schools, hospitals, parks, streets, bridges, water or sewage treatment plants, or equipment to monitor air quality or fight fires, as long as they are needed to serve the employees of new energy facilities and their families. CEIP funds cannot, however, be used to improve old roads to serve existing industries or to construct a new health facility to meet needs present before July 26, 1976, the date the law took effect.

For repayment assistance

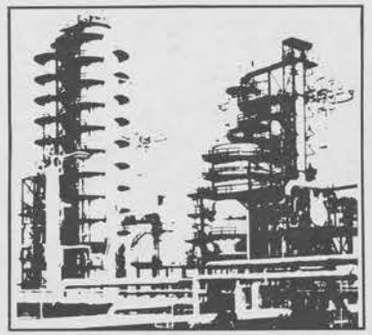
The CEIP is designed so that the federal government, rather than the local community, assumes the financial risk of providing facilities required as a result of new energy activity that will benefit the entire country. For example, if OCS lands are leased and a nearby community expects a sizeable increase in population, it may plan for and construct public facilities, anticipating that the growth of the tax base will cover their cost. If the community does not grow as expected and therefore cannot repay its debt, OCZM may modify the loan terms, refinance the loan or make a supplemental loan. If these actions still are inadequate, a grant from the Fund will repay the loan. Likewise, formula grants help communities retire guaranteed bonds.

For alleviating "unavoidable" environmental loss

The first three types of CEIP assistance attempt to lessen the social and economic impacts of energy activity; the fourth tries to mitigate or, better yet, prevent environmental or recreational losses suffered as a result of past, present or future energy activities. According to the CEIP regulations, a loss is "unavoidable" if it cannot be attributed to an identifiable person or persons or cannot be prevented or reduced by assessing the cost against that person or persons. For example, the gradual deterioration of oyster beds in a channel over which tankers pass and leak oil may be considered an "unavoidable" loss because of the difficulty of assigning responsibility for the damage.

Grants may be used for such purposes as enforcement of environmental standards imposed on an energy facility to prevent future environmental losses; development of new laws or other programs to reduce "unavoidable" losses; actions such as beach acquisition to replace lost resources; or payments to reduce environmental damage caused by construction of a road servicing a new energy facility.

Formula grants are the primary source of funds for environmental projects, with 100 percent of a state's allotment available for such projects *if* bond repayment assistance is not required (formula grants must be used first to retire state and local bonds). If the formula grant is insufficient to pay for environmental projects or if a state has no formula grant allotment, up to approximately $25 million over 10 years may be available from the Fund.



Intrastate allocation process

Once OCZM allots funds to states, it is up to the states to allocate the funds to state agencies and local communities. The state must develop a process that includes assigning priorities to local projects and ensuring that local governments are involved in formulating the allocation procedures. If a local government feels that the money it gets is not enough, it can appeal the decision — first to the state, then to OCZM if the issue is not resolved. Such an appeal may only be based on the grounds that the state did not comply with its own allocation process. Since a state cannot distribute any of its CEIP funds until the appeal is settled, the incentives for state and local communities to cooperate are great.

Where will the money go?

Where the money goes will depend on where new energy activity occurs. Most is expected to come from OCS drilling. Although no definite projections can be made until further exploration occurs, OCZM currently estimates that the funds will be allotted by region approximately according to the table on page 2.

Principles behind the program

The CEIP is built on certain principles that define the program's approach and how it will work. The CEIP is based on the premise that good planning can help to avoid many of the problems resulting from energy development. Thus, funding mechanisms allow communities that anticipate energy impacts to plan ahead so that the public facilities will be in place when they are needed. Further, since this planning should be done within the framework of the existing CZM Program, OCZM administers both the CZM Program and the CEIP.

Responsibility for operating the CEIP is shared among all levels of government. The local community plans for, develops and finances the additional public facilities and services. The state administers the coastal management program and allocates CEIP funds among the local communities. The federal government allots funds among the coastal states and assumes the risks incurred by local governments for developing the new public facilities, by becoming the lender of last resort.

Sound fiscal management is encouraged. Loans and bond guarantees are the primary forms of help for public facilities; direct grants are given only when the need for additional assistance arises. In this way, OCZM believes that local public coffers should neither suffer nor profit from the CEIP.

Finally, to try to ensure that the program runs smoothly, the CEIP encourages early consultation, coordination and cooperation among the different levels of government and the energy industry.

Transforming these principles into a workable program is not an easy task. The success of the CEIP will depend on how well the complex mechanisms created by the program operate. For instance, can the CEIP give coastal communities enough help to mitigate the undesirable effects of energy activities, yet not provide so much financial incentive that unnecessary development is attracted to coastal areas? Will the attempt to create a federal-state-local government partnership result in a smoother process of energy decision making? Will funding for energy-related public facilities give energy producers an unfair advantage over those who wish to preserve the coast for other uses? Since planning is not required by the CEIP (although the CEIP must be tied to the CZM process), are the incentives for planning sufficient? Will states that have coastal zone management programs find them adequate to cope with the demands of new energy activity? Most states will not have approved management programs when the CEIP begins in 1977; will introduction of the CEIP have any effect on the speed with which states move to complete their CZM programs?

Important issues to watch

In addition to the many general questions for which only implementation of the CEIP will provide answers, there are four specific unresolved issues arising from the 1976 law or the accompanying regulations that demand our attention.

Federal consistency

Section 307 of the CZMA, better known as the "federal consistency provision," was originally welcomed by the states as a gesture of cooperation by the federal government. Now the states are not so sure. Many states are concerned about the fact that a federal agency may be its own judge about whether its actions affecting the coastal zone are in compliance. Specifically; since federal consistency is not required if the coastal area is not directly affected, should the federal agency rather than the state decide whether or not the federal action *directly* affects the coastal zone? And if the federal action does not directly affect the coastal area, should the federal agency be the one to decide whether it is consistent "to the maximum extent practicable" with the state's coastal program? States feel they will have too little say in a consistency decision and limited recourse if they disagree.

Neither the 1972 nor the 1976 law provides an administrative mechanism for halting federal activities while a state appeals. A state may ask the federal agency to informally negotiate the disagreement with the help of OCZM. If no agreement is reached, voluntary mediation before the Secretary of Commerce may be sought. The only other option open to a state is litigation; many states are asking for an option, other than going to court, that will give them a greater voice in the outcome.

The states, federal agencies and OCZM are currently trying to develop mutually acceptable regulations that respond to both federal and state concerns. The regulations will address procedural issues and provide opportunities for state participation and comment, but disagreements over interpretation of the law may end up in court. For example, the Justice Department has held that federal lands in coastal areas are excluded from the coastal zone program, thereby limiting the effect of the federal consistency requirements. Some states argue that federal actions in such areas ought to be as fully consistent with the state management program as all other land in the coastal zone. Or clarification of the phrase "directly affecting" the coastal zone may require litigation to determine whether or not secondary as well as immediate impacts must be considered before a federal action is taken. The process of putting into practice the congressional intent to promote a cooperative state-federal coastal management effort will be fascinating, if slow; the result may be a model for future state-federal relations.

"Unavoidable" loss

The CEIP provides grants only to prevent or repair "unavoidable" environmental losses. In practice, how will states decide when a loss is unavoidable? For past damages, the decision is relatively easy, since it is usually no longer possible to point a finger at the cause. As long as there is no continuing violation of state or local law that may be contributing to the environmental loss, projects can be funded to repair or replace the loss.

For environmental damages that may occur in the future, the loss is unavoidable only if a state has taken all the steps it reasonably can to enforce its laws and still cannot prevent the loss. OCZM intends to apply stricter eligibility standards for funds to ameliorate future losses than it does for past ones, but it recognizes that if it defines *unavoidable* narrowly it will be denying states and communities the remedy that the law intends to offer and some environmental damage may go uncorrected. Yet if OCZM defines *unavoidable* broadly, it may find itself in the business of subsidizing polluters. The proper balance is likely to be found only after a number of years of experience with the program.

The two-step requisition procedure

The two-step requisition procedure for formula grant allotments to

the states established by the CEIP regulations is another bone of contention. In the process as now defined, OCZM notifies a state of its share of the formula grant. Before funds are disbursed, a state must certify that, 1) the funds will be used in a manner consistent with the state CZM program, 2) no other federal funds are available for the proposed projects; and 3) the proposed projects are required as a result of new or expanded coastal energy activity.

Many states object. They want the formula grant allotment to be treated like a revenue-sharing grant, with monies distributed immediately to them without the intervening steps. They say that the role of OCZM should be limited to *ex post facto* review for compliance. OCZM counters that its procedure will help ensure that formula grant funds are used for purposes stated in the law and that all projects comply with the National Environmental Policy Act.

The revenue-sharing controversy

OCZM can change the requisition procedure by revising the CEIP regulations. But some states are also unhappy with a restriction written into the 1976 law, which allows states to use formula grants for public facilities only "because of the unavailability of adequate financing under any other subsection." Congress may decide to amend the 1976 Amendments to eliminate this provision. Or Congress may consider giving states revenue-sharing funds from the proceeds of OCS lease sales to deal with energy impacts. Supporters of the 1976 amendments believe that such legislation would circumvent some of the purposes of the CEIP. Unlike the CEIP, revenue-sharing funds might not be directed toward those states with the most severe energy impacts and use of the funds might not be linked to state CZM programs.

Public participation

Since over 100 million people live in counties bordering a coast, it is not surprising that there are a great many different ideas about what should happen in our nation's coastal zones. Developing a plan for the future of a coastal area is a difficult task; it would be an impossible one if citizens were not part of the decision-making process. And they can be, under the CZM Program and the CEIP, which encourage citizen participation and make specific provisions for public review and comment at several points in the process.

In the CZM program

☐ OCZM is urging widespread public involvement in the development of state programs (see the CURRENT FOCUS, *Coastal Zone Management Program* for specifics). Once the state has completed a draft of the program (and many states are nearing this stage), it goes to OCZM for review, and OCZM prepares a preliminary Environmental Impact Statement (EIS). OCZM provides the standard 45-day comment period (counting from the time of publication of the EIS in the *Federal Register)* and will usually grant a 15-day extension if needed. Although not required by law to do so, OCZM has been holding public hearings on the draft EISes in the area covered by the management program. The hearing is usually held 30 to 45 days after EIS publication and after at least 15-day notice of the hearing in the *Federal Register* and major state newspapers. Check the local library or state CZM coordinating agency for copies of the EIS, or ask to have your name placed on OCZM's mailing list for a copy.

> "With activity already underway in most coastal states, what does this leave for you to do? Most importantly, help determine the direction your state's program takes by becoming involved.
>
> While local, state and federal officials do their best to act upon the needs and desires of their constituents, often they have difficulty recognizing these needs until the people themselves speak out. There are ways to do this. Become informed about your state's program and express your feelings on what should be accomplished. Contact your elected officials, take part in public hearings, and make yourself heard.
>
> The future of our nation's coast and its resources is in your hands. What you do, or don't do, will have a lasting impact upon you and upon generations to come."
>
> Robert Knecht, Acting Associate
> Administrator for the Office of Coastal Zone Management

☐ The public's role does not end with approval of the management program. Citizens should monitor implementation to ensure that program elements such as uses requiring guidance and areas of concern identified in the planning phase are developed in a way consistent with the objectives of the program.

☐ Creating good working relations among the local, state and federal levels of government will be one of the most difficult aspects of the coastal program. In an attempt to ensure local-state consultation, Sec. 306 requires that, if a state intends to take a major action that conflicts with a local zoning ordinance, the state notify the local government of its intent. If the local government disagrees with the state action, the state is authorized but not required by law to hold a public hearing on the comments received from the locality.

☐ State-federal coordination is governed in large part by the federal consistency requirements. Current interim OCZM regulations require that a federal agency undertaking any activity requiring consistency give public notice in the area immediately affected. The regulations also allow the state CZM coordinating agency to hold a public hearing at its discretion on the proposed federal action. If a state and a federal agency have a serious disagreement over a federal action, the state may ask the Secretary of Commerce to mediate the dispute. As a part of the mediation, public hearings must be held in the local area concerned—still another opportunity for citizens to be heard.

In the CEIP

☐ The public may participate in the CEIP in two major ways — through the intrastate allocation process and, in the case of actions that will have a significant impact on the environment, through EIS review. The state's intrastate allocation process *must* provide for formally notifying the public of the allocation of financial assistance throughout the allocation process. Citizens in areas that may be affected by energy activities should make sure that the state is aware of all the potential impacts *before* it allocates its funds.

☐ Citizens should also be aware of the opportunities for comment whenever an EIS is required. Before an OCS lease sale, the Department of the Interior must produce an EIS. When OCZM reviews projects, it decides, as noted earlier, whether or not an EIS is required. (In general, planning grants and repayment assistance will not require an EIS.) If an EIS is prepared, a public hearing will most likely be held.

The opportunities for citizen involvement are ample if citizens take advantage of them. Much of the existing wealth of coastal resources — natural, commercial, recreational, ecological, industrial and esthetic — can be preserved while new resources are developed to meet future needs, if Americans begin to discuss today what kind of coasts they want for tomorrow.

Resources

Suggested Reading

COASTAL ZONE MANAGEMENT ACT as amended, P.L. 92-583. P.L. 93-612.

COASTAL ZONE MANAGEMENT ACT AMENDMENTS OF 1976, P.L. 94-370.

Coastal Zone Management Program Development Grants. FEDERAL REGISTER, pp. 33043-33051, November 29, 1973. Final regulations.
Proposed supplemental regulations. FEDERAL REGISTER, pp. 53418-53425, December 6, 1976. Final supplemental regulations expected April 1977.

Coastal Zone Management Program State Administrative Grants. FEDERAL REGISTER, pp. 1683-1695, January 9, 1975. Final regulations.
Proposed supplemental regulations. FEDERAL REGISTER, pp. 57004-57011, December 30, 1976. Final revised regulations expected June 1977.

Coastal Energy Impact Program. FEDERAL REGISTER, pp. 1164-1187, January 5, 1977. Interim-final regulations. Final regulations expected April 1977.

Office of Coastal Zone Management, NOAA. **Coastal Management Aspects of OCS Oil and Gas Development.** 83 pp. 1975.

United States Congress Office of Technology Assessment. **Coastal Effects of Offshore Energy Systems: An Assessment of Oil and Gas Systems, Deepwater Ports, and Nuclear Powerplants Off the Coast of New Jersey and Delaware.** 288 pp. November 1976.

Above material available free from Public Affairs Office, Office of Coastal Zone Management, 3300 Whitehaven Parkway, Washington, D.C. 20235.

League of Women Voters Education Fund. CURRENT FOCUS, **Coastal Zone Management Program.** Pub. No. 572. 6 pp. 1975. LWVEF, 1730 M Street, N.W., Washington, D.C. 20036. 35¢.

League of Women Voters Education Fund. CURRENT FOCUS, **The Onshore Impact of Offshore Oil.** Pub. No. 661. 6 pp. 1976. LWVEF, 1730 M Street, N.W., Washington, D.C. 20036. 40¢.

Baldwin, Pamela L. and Malcolm. **Onshore Planning for Offshore Oil, Lessons from Scotland.** 183 pp. 1975. Order from: Conservation Foundation, 1717 Massachusetts Ave., N.W. Washington, D.C. 20036. $5.00. The Conservation Foundation also has available for rent a film or slide show entitled "Onshore Planning for Offshore Oil: Voices from Scotland." Film: $25/showing. Slide-tape presentation: $30/showing.

NACo. Case Studies on Energy Impacts. **No. 5. Serving the Offshore Oil Industry: Planning for Onshore Growth.** December 1976. Order from: Energy Project, National Association of Counties, 1735 New York Ave., N.W., Washington, D.C. 20006. Free while limited supply lasts.

Senate Committee on Energy and Natural Resources. **Outer Continental Shelf Lands Act Amendments of 1977.** S. 9.

STATE COASTAL MANAGEMENT AGENCIES

If you have a question about the coastal management program in your state, contact the state Program Manager at the address below.

Alabama
Alabama Development Office
State Capitol
Montgomery, Alabama 36130

Alaska
Policy Development and Planning Division
Office of the Governor
Pouch AD
Juneau, Alaska 99801

California
California Coastal Zone Conservation Commission
1540 Market Street
San Francisco, California 94102

Connecticut
Coastal Area Management Program
Department of Environmental Protection
71 Capitol Avenue
Hartford, Connecticut 06115

Delaware
State Planning Office
Thomas Collins Building
530 South Dupont Highway
Dover, Delaware 19901

Florida
Bureau of Coastal Zone Planning
115 Bloxham Street, Pennington Building
Tallahassee, Florida 32304

Georgia
Planning Division, Office of Planning & Budget
270 Washington Street, S.W.
Atlanta, Georgia 30334

Guam
Bureau of Planning
Government of Guam
P.O. Box 2950
Agana, Guam 96910

Hawaii
Department of Planning and Economic Development
P.O. Box 2359
Honolulu, Hawaii 96804

Illinois
Illinois Coastal Zone Management Program
300 North State Street
Room 1010
Chicago, Illinois 60610

Indiana
State Planning Services Agency
143 West Market Street
Indianapolis, Indiana 46204

Louisiana
State Planning Office
4528 Bennington Avenue
Baton Rouge, Louisiana 70808

Maine
State Planning Office
Resource Planning Division
189 State Street
Augusta, Maine 04333

Maryland
Department of Natural Resources
Energy & Coastal Zone Administration
Tawes State Office Bldg.
Annapolis, Maryland 21401

Massachusetts
Executive Office of Environmental Affairs
100 Cambridge Street
Boston, Massachusetts 02202

Michigan
Coastal Zone Management Program
Department of Natural Resources
Division of Land Use Programs
Stephen T. Mason Building
Lansing, Michigan 48926

Minnesota
State Planning Agency
Capitol Square Building
550 Cedar Street, Room 100
St. Paul, Minnesota 55155

Mississippi
Mississippi Marine Resources Council
P.O. Drawer 959
Long Beach, Mississippi 39560

New Hampshire
Division of Regional Planning
Office of Comprehensive Planning
State Annex
Concord, New Hampshire 03301

New Jersey
Office of Coastal Zone Management
Department of Environmental Protection
P.O. Box 1889
Trenton, New Jersey 08625

New York
Division of State Planning
Department of State
162 Washington Street
Albany, New York 12231

North Carolina
Department of Natural and Economic Resources
Box 27687
Raleigh, North Carolina 27611

Ohio
Department of Natural Resources,
Division of Water
1930 Belcher Drive, Fountain Square
Columbus, Ohio 43224

Oregon
Land Conservation and Development Commission
1175 Court Street, N.E.
Salem, Oregon 97310

Pennsylvania
Division of Outdoor Recreation
Department of Environmental Resources
Third & Reily Sts., P.O. Box 1467
Harrisburg, Pennsylvania 17120

Puerto Rico
Department of Natural Resources
P.O. Box 5887
Puerto de Tierra, Puerto Rico 00906

Rhode Island
Statewide Planning Program
Department of Administration
265 Melrose Street
Providence, Rhode Island 02907

South Carolina
Wildlife and Marine Resources Department
1116 Bankers Trust Tower
Columbia, South Carolina 29201

Texas
Texas Coastal Management Program
1705 Guadelupe
1700 N. Congress Avenue
Austin, Texas 78701

Virginia
Office of Commerce & Resources
5th Floor, Ninth Street Office Building
Richmond, Virginia 23219

Virgin Islands
Virgin Islands Planning Office
P.O. Box 2606
Charlotte Amalie, St. Thomas
U.S. Virgin Islands 00801

Washington
Department of Ecology
State of Washington
Olympia, Washington 98504

Wisconsin
State Planning Office
One West Wilson Street, B-130
Madison, Wisconsin 53702

BCDC
Bay Conservation & Development Commission
30 Van Ness Avenue, Room 2011
San Francisco, California 94102

Researched and written by Judith S. Benedict (staff specialist), assisted by Alice Klavans (staff head), LVWEF Land Use Department.

Order from League of Women Voters of the United States, 1730 M Street, N.W., Washington, D.C. 20036 Pub No. 699, April 1977 40¢.

Barg

LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

To: Herb Johnson
From: Harriett Herb
Re: Addresses
Date: February 16, 1977

We're getting rave comments about the BWCA photo poster which is now on our bulletin board.

Poppleton was in yesterday, February 15, and was pleased to learn of the very positive response to your speech at Rock Center. She was also gratified to know that not all 8th District citizens support Oberstar's bill on the BWCA. She will prepare letters to our congressional delegation requesting their support of Fraser's bill.

I'll send memos to the following Leagues - probably early next week - explaining that the print will follow and requesting their support:

Jean Anderson, Director, Environmental Quality
LWV-US
1730 M Street Northwest
Washington, D.C. 20036

Donna Schiller, President
LWV of Illinois
67 East Madison Street
Chicago, Illinois 60603

Louise P. Moon, President
LWV of Iowa
610 Capital City Bank Building
East 5th and Locust Streets
Des Moines, Iowa 50309

Charlotte P. Copp, President
LWV of Michigan
202 Mill Street
Lansing, MN 58933

Jane Knecht, President
LWV of North Dakota
100 First Street
Bismark, North Dakota 58501

Carol E. Anderson, President
LWV of South Dakota
P.O. Box 1989
Rapid City, South Dakota 57701

Shirley Crinion, President
LWV of Wisconsin
2717 Kay Street
Eau Claire, Wisconsin 54701

Since the LWV has a policy that we do NOT divulge membership or presidents lists, I'd appreciate it if you did not use the above for any purpose other than sending the poster.

We have one Board member who has a friend recently elected to Congress from Ohio, so Jean will encourage a yes vote on Fraser's BWCA bill. A staff member is close friends with Berkley Bedell, Rep.-Iowa, so she'll ask him to help out too.

If you think it would help, we could write to all state Leagues requesting their support for Fraser's BWCA bill. I wouldn't think they'd all need the poster, however.

Thanks, Herb.

A LAND USE EXCHANGE: what citizens can do

If citizens are to be effectively involved in making public policy decisions on land use, they need to know about the processes through which those decisions are made, they need background on the specific issues, they need to know the range of workable alternatives, and they need to be able to pinpoint the channels for citizen input.

State and local Leagues across the country have been at work building this broad community understanding. They have presented information both to citizens and government officials. They have worked toward a community atmosphere in which the merits of differing goals and interests can be examined in a rational manner. And they have helped to clarify and resolve some of the thorny land use questions that ultimately affect the residents of a community or state.

This review of some of their projects is presented to indicate the rich variety of ways in which local and state volunteer groups can foster greater citizen understanding of land use issues and widen citizen participation in making policy.

ORGANIZING COMMUNITY MEETINGS

Bringing diverse organizations and interests together to discover common areas of agreement, to define goals, or just to understand better the diversity of viewpoints can be invaluable--to citizens and administrators alike--in shaping more responsive public policies. The logistics in organizing community or statewide meetings can be challenging; careful planning and consultation with a wide range of groups is essential. In planning meetings, it is wise to hold static lectures to a necessary minimum and to lean toward more dynamic formats, balancing the formal with the informal and using a range of participatory techniques--brainstorming, audience participation, feedback, interview sessions, discussion panels, and participant polls.

The ALASKA League, with a grant from the Alaska Humanities Forum, conducted 12 workshops throughout the state, tailored to help communities relate their specific problems to an overall state land planning process. Local Leagues coordinated the workshops, inviting local residents to share in advance arrangements and to serve on panels. Representatives from such federal and state agencies as the U.S. Forest Service, the U.S. Bureau of Land Management, and the state coastal zone office, brought professional input to the sessions. A key ingredient for success was allotting as much time as possible to audience participation in the discussions. According to one coordinator, "People enjoyed the chance to talk about the land, and are concerned that nobody [in power] listens." The workshops were designed to elicit varied points of view--development versus preservation, logging versus fishing, quality of life versus cost of living, the high price of and short supply of land--and the desire for more local control of land. As a participant observed, "We all seem to want a freeway at our front door for convenience and wilderness at our backdoor." The state League is now compiling ideas from all the workshops into a summary report for participants and other interested persons, including key public officials. The League's verdict on the project: the series has built a new bridge of communication among diverse groups and individuals within the state.

Under a contract from the regional office of the U.S. Environmental Protection Agency, the CALIFORNIA League conducted a series of citizen forums on environmental issues. Local Leagues could apply for pass-through grants under guidelines developed by a steering committee. The committee suggested that co-sponsors be asked to join in sponsoring and planning the forums. The aim was to give a current community problem a thorough airing by including local, state and federal governmental officials, private interests and concerned citizens. Governmental representatives explained each agency's role in the particular issue discussed at each forum. The first round of forums took up a wide variety of issues--regional growth management; preservation of farm land; "208" water quality program; air quality; options for a "supersewer;" ways to strengthen grassroots planning.

The MINNESOTA League, along with the Sierra Club, set out to shed some light on the complex problems of state land use, discuss the allocation of land use authority in Minnesota, and identify alternative solutions. They sponsored a series of bi-weekly study/discussion seminars, followed by a two-day final conference, and produced a summary publication entitled Land Use...Who Decides? The same title was also used for a one-hour television show on local education stations. The first half-hour was film, showing land use issues and the people involved in them. The second half-hour was a four-member live panel that answered questions phoned into the station by viewers. The League found that the response was overwhelming--more questions than could be answered.

The OKLAHOMA League took out insurance for a successful project by getting a wide spectrum list of co-sponsors. Its workshop, "For Land's Sake," got support from the Municipal League, Soil Conservation Society, Farm Bureau, Oklahoma Association of Realtors, American Institute of Planners, Oklahoma Conservation Commission, and the Cattlemen's Association. The day-long workshop started with an introductory planning session, at which speakers laid out

the interrelationships of national, state, and local land use planning and underscored the range of opinions in land use policy. Then they put the 100 participants, people of diverse backgrounds, into small discussion groups to compare concerns and points of view about economic and quality-of-life issues in land management and then identify some solutions. In follow-up discussion groups, participants agreed that the meeting was a good start toward communication among people of sharply differing opinions who will eventually have to work out answers to Oklahoma's thorny land use questions. The League observes that the meetings' chief benefit was setting into motion a process of dialogue which may one day lead to compromise. Now, other groups are using the basic technique after observing the League's success.

In SOUTH BEND, Indiana the League joined the University of Notre Dame in holding a series of five come-one-come-all meetings on "Zoning and the Constitution: Private Rights and the Public Interest." Leading lawyers, experts on constitutional law and others representing both private interest and public interest points of view helped to build community awareness of the differing attitudes toward property rights and zoning and to encourage citizens to explore possible means of resolving conflicting views. The five meeting topics were: Zoning and the Right to Privacy, Zoning and the Right to Property, Zoning and the Right to Equal Protection, Zoning and the Right to Associate, Zoning and the Right to the Pursuit of Happiness. After a panel presentation at each meeting, community leaders, including city officials, attorneys, planners, together with citizens, discussed attitudes toward property rights and common areas of agreement. One week later, in-depth discussions were held with selected participants to distill key points made at the public meetings.

ATTRACTING ATTENTION THROUGH RADIO AND TV

The potential for reaching a broad spectrum of community residents through radio and TV is great--if the community gets enough advance notice and if the program itself is stimulating. A number of Leagues have arranged with local and state television and radio stations for air or cable time to do special land use programming--often produced by the League itself. To gain viewer attention, Leagues have used press releases, newspaper articles and community meetings both before and after the actual program.

The CHATTANOOGA, Tennessee League produced five programs on land use for airing on their local television station. The series kicked off with a film on the interrelated land use problems in the mountainous region of Georgia, South Carolina, North Carolina and Tennessee. Another program was based on an interview with the director of the regional planning commission. The other three took up the impact of nuclear power plant siting, the pros and cons of state land use legislation, and the effect of air pollution on land use decisions. To extend the reach of the programs, the League arranged with the local newspapers for a follow-up report on each program.

The GEORGIA League prepared a script on the pros and cons of state and national land planning that local Leagues could either use in a radio interview or adapt for articles in the local newspapers. Users were urged to add local examples and to adjust the original script in order to relate to immediate community concerns. A chief benefit of the script, according to the League, was its ability to reach people in remote outlying areas who seldom receive information on the subject.

The POCATELLO, Idaho League, along with the local television station and public library, aired five one-hour TV programs tailored to seek the broad-based community input on land use goals and plans that is specifically required by the Local Planning Act of 1975. The monthly series covered: background on the Local Planning Act, land use of more-than-local concern, federal lands in Idaho, mineral and energy demands in relation to land use, and constitutional questions concerning land use. Each program began with a rundown by experts on the subject area. Then came a 15-minute film showing relevant Idaho places or situations; reaction from a panel representing diverse interests; followed by reactions from a studio audience and from 20 area meetings (through phone-in questions) organized at public libraries. To coordinate the effort, the League provided discussion outlines, evaluation, materials, instructions to leaders. Certainly, citizens were reached--an estimated 200,000 in south central and southwest Idaho. The League's evaluation: the program was extremely worthwhile; it gave participants "an opportunity to develop an awareness of individual views and values, both from within the community and without, and participants were able to exercise their options for citizen input into the planning process."

PRODUCING FILMS AND SLIDE SHOWS

"One good picture is worth a thousand words." There's nothing like photos, slides or a film for getting an otherwise unconcerned audience involved. Land use, in particular, is a subject that needs illustrations to alert an audience to possible problems and solutions. Luckily, it's a subject that lends itself to just such visual aids. Since filmmaking can be an expensive and technically demanding undertaking, many Leagues have turned to use of slide-shows.

With a grant from the state Humanities Commission, the COUNCIL OF METROPOLITAN AREA Leagues (for the Twin Cities, Minnesota area) produced a 30-minute slide show on Land Use: The Cost of Sprawl. They shot "on location," producing right in the Twin Cities area. The show had a tightly focused goal: to make people aware of how the costs of public services are related to types of land use (e.g. clustered residential developments versus one-acre single-family developments versus industrial parks). The CMAL made the slide show available to all local libraries for use by residents. Letters went to service clubs and civic associations throughout the area alerting them about the show and inviting them to book through the local Leagues, which had trained personnel to present the show and lead the follow-up discussion. The show has reached a broad audience ranging from local civic organizations and garden clubs to the Chamber of Commerce and professional groups.

"A Question of Harmony"...that was the keynote for the 30-minute slide show on state land use issues produced by the MAINE League. The aim was not to solve problems but to stimulate an awareness of the issues and to awaken citizen interest in them. A suggested discussion outline accompanied the show, as well as a questionnaire, to check viewer reaction. The show presented Maine's land and water resources, described some of the problems that had developed in the use of these resources and outlined suggested proposals for change. The League announced the availability of the show through a news release mailed to the state's 52 newspapers and to key public and private organizations. Since the announcement, the show has been presented to a wide variety of groups--schools, garden clubs, nursing homes, senior citizen clubs, churches, teacher workshops, extension groups--many of them groups that might not ordinarily have presented such a program.

The NEBRASKA League coproduced a documentary film on attitudes toward land use, then parlayed it into a web of community showings and follow-up local forums. They didn't work alone. A grant from the state Committee on the Humanities funded the production, which was a joint effort with the state educational television station. The film, titled "Attitudes Toward Use of Land in Nebraska: The Relationship Between Individual Property Rights and Government's Power to Regulate," examined the economic and environmental values of land, the relationship and history of individual property rights and public responsibilities and the attitudes of Nebraska citizens toward the use of Nebraska's land resources. League members' pre-shooting research included attendance at public hearings of the state Legislative Interim Study Committee on Land Use and a round of meetings with experts on architecture and planning, law, economics, geography and political science. Through interviews with a feedlot owner, lumberman, farmer, city planner, rancher, banker, developer, professor and economist, the film presents a cross-section of attitudes toward land. Once produced, the film was shown on television in conjunction with a series of town forums or assembly meetings across the state. These meetings, also televised, included discussion about community reactions to the film and specific ways in which citizens can participate in land resource decisions. In addition, the film has been shown independently to a wide spectrum of groups across the state, ranging from college classes to the AAUW.

CONDUCTING SURVEYS

In-depth research, through questionnaires, interviews and polls, has enabled Leagues to help public officials design more effective programs. The purposes have been manifold--to monitor the implementation of specific laws, to compile data on current land use patterns and practices and to determine citizen opinion on possible changes in agency programs and policies.

The MASSACHUSETTS League is monitoring the implementation of a Growth Policy Development Act, passed in 1967. The act establishes a process in which representatives of each municipality are invited to join regional planning commissions and the state government in developing policy for the future growth of the state--policies that deal with where state investments are made and how priority areas are designated for conservation or development. The state League is now compiling a survey, in cooperation with local Leagues, which evaluates how the growth policy process is working, what problems arise, and what local Growth Policy Committees are achieving. The League will follow the growth policy process all the way from the local to regional to state level--monitoring for coordination among levels of government and coverage of growth issues.

To help local Leagues get accurate, up-to-date information on the status of land use planning in their state, the OHIO League developed a comprehensive survey kit. It included special interview forms to find out about local planning agencies, metropolitan/regional planning agencies and subdivision/zoning ordinances, plus sample discussion questions for use at meetings held to evaluate the information obtained in answer to the interviews. The state League, which compiled the data and distributed a follow-up paper, now has a reference file of all local/regional land use regulations and plans. As a result of their efforts, the state League was then asked to cosponsor (with the Ohio Department of Natural Resources) a two-day Governor's Conference on Land Use that resulted in the formation of an Ohio Assembly on Land Use. The recommendations of this group, based on an 8-month study of state and local land use issues, led to establishment of a new body, the Ohio Land Use Review Committee, to report citizen opinion and ideas on land use to state officials.

The WASHINGTON League negotiated a contract with the State Department of Ecology, the municipality of Seattle, and the Seattle District Corps of Engineers to evaluate citizen participation programs at the state, regional and local levels, to help agencies design more effective programs. The state League hired local members to gather data on citizen participation in land and water planning programs. The final report, An Overview of Citizen Participation, was distributed by the sponsoring agencies to interested citizens. Additional copies were placed in the state government's information centers, located across the state. The study concluded that a set of criteria should guide all future citizen participation efforts, namely that, "Citizen participation programs must be designed to show 1) the relevance of the issues to be discussed; 2) with a definite course of action; 3) with a stated time table; and 4) with a clear indication of the result of the citizens' participation."

With technical assistance from the State Department of Economic Planning and Development and the Water Resources Institute, the WYOMING League compiled and published a Land Use Inventory of the state. The extensive inventory was based on several months of research and interviews with federal and state agency personnel, university professors, lawyers and law students. This detective work produced an in-depth review of key land laws (both state and federal) a survey of federal-state-private land owners, a summary of the major uses of land (including industry, agriculture, transportation) and an evaluation of the status of planning and zoning throughout the state. The book proved so popular that it has gone through several reprintings.

DISSEMINATING PRINTED INFORMATION

In building community understanding of land use issues, publications that are carefully tailored to their purpose can be valuable tools--whether for informing citizens on the requirements of new laws, for laying out the pros and cons of a particular

issue, or for outlining the planning process in a community. Leagues have spent considerable time in developing formats appropriate for the intended audience--in one case, a short bold flyer for the general public; in another, a detailed analysis of a neglected problem, for a local planning commission; for still another need, a brief handbook on the planning process at the local or state level.

When the KALAMAZOO AREA, Michigan League published The Why, The Who, The How, and The Where To Find Out About Planning, Zoning, and Land Use in Kalamazoo County, the title was the longest sentence in it. Intended to "help create interest in land use planning and [to] assist interested persons in their quest for information," the brochure described, in everyday language, the legal basis for planning, the nature of the population, and how to participate in zoning decisions. After reading the brochure, a layman had a basic understanding of such complex subjects as zoning ordinances, planned unit developments, density zoning, and how to participate in the planning/zoning process. Hundreds of copies of the pamphlet were distributed--to libraries, public meetings, the city planning department.

To help moderate sharp differences in the community over the authority of the local planning commission, the MARTHA'S VINEYARD, Massachusetts League produced a citizen's guide, The Martha's Vineyard Commission. The handbook presented a simplified explanation of the complex state law that created the commission to guide land use and economic growth in the rapidly growing community. The clever use of layout and graphic design made its discussion of the commission's goal, basic principle, authority, responsibilities and structure easy and attractive to read. The handbook also included a glossary and answers to most-asked questions ("If I want to build a house, where do I go for a permit?"). The League distributed the handbook widely--at meetings and shopping centers, for example--to interested citizens in the community.

The OWENSBORO, Kentucky League, in cooperation with the regional planning agency, prepared a report on Daviess County's Natural and Historic Assets. In the publication's introduction, the League wrote, "The Daviess County area has many valuable natural and historic resources. We tend to exploit those that bring a profit and sometimes forget resources which add to the quality of life and thus enrich it." The report, which covered archeology, critical wildlife areas, historic landmarks and local geology, originated when a survey of planning publications revealed that the county's planning needs for natural and historic resources had been neglected. The League embarked on the publication with the hope that some of the sites included in the report would be acquired for the public or protected through zoning ordinances. Result: the local planning agency said the League saved them $7000, and the study is now being expanded to a seven-county area.

The NORTH CAROLINA League developed and printed a colorful flyer for the general public entitled Land Use Planning: What's In It for You?. It examined some of the common reactions to land use, such as, "It's my land and I'll do whatever I want to with it. I'll cut the trees and fill the swamp and make a great big shopping center or maybe sell for a subdivision." It also outlined the benefits of good land use planning and recommendations for state land policy. These flyers, designed for private citizens who had never heard of land use, were distributed at every possible opportunity--at meetings of any related group, public hearings, League-sponsored activities.

Because land use decisions involve the weighing of values, not merely making technical decisions, citizens need to understand what is at stake and make themselves heard. No governmental land use program can succeed without a strong citizen role, whether in the early stage of planning or in monitoring how it is carried out. The examples presented here suggest how creatively volunteer groups can program to meet their communities' needs--by clarifying the issues and making it easier for citizens to become involved. The techniques described can readily be adapted to your group's goals, whatever the specific land issue in your area.

RESOURCES

League of Women Voters of Martha's Vineyard. Handbook on The Martha's Vineyard Commission, 8 pp. 1976. For free copy, order from Mrs. Margaret Hall, Box 1186, Edgartown, MA 02539 Good model for a citizen guide to local planning.

League of Women Voters of Washington. An Overview of Citizen Participation. For free copy, write to Washington State Department of Ecology, Olympia, Washington 58904 Contains criteria for evaluating citizen participation.

Rosenbaum, Nelson M. Citizen Involvement in Land Use Governance: Issues and Methods. 82 pp. 1976. Urban Institute, 2100 M Street, NW, Washington, DC 20036 $3.50. Overall guide to the citizen role in land use with description of specific points in the planning process for citizen access.

LWVUS Media Kit. Five brief publications on how to develop a PR program; deal with the news media; set up a speakers' bureau; produce a slide show; use radio and TV. Pub. #163. $1.00.

LWVEF, How to Plan an Environmental Conference. How to plan and conduct an environmental conference--easily applied to conferences on other topics. 1971. 48 pp. Pub. #695. Free.

LWVUS Public Action Kit (PAK). How to organize and gain public support for public action goals. The ingredients necessary to PAK political wallop from city hall to Washington. 1976. Pub. #629. Approx. 130 pp. $3.00.

LWVEF, Exploring American Futures. Workbook to help community groups stimulate and organize their perceptions and expectations of the future. Step-by-step instructions and models for using the process to plan for the future of the nation, a community, an organization. 1975. Pub. #592. 48 pp. $1.

LWVEF, Exploring American Futures--A Leader's Guide. How to organize and carry out a futures planning session. 1975. Pub. #566. 4 pp. 50¢.

LWVEF, What's In It For Me?. An education piece that encourages people to think about their own dependence on land planning. 1976. Flyer, 4 pp. Pub. #600. 100/$3 minimum.

LWVEF, So You'd Like to Do Something About Water Pollution. Guide for average citizen--what he/she can do to fight water pollution in the community. Also relevant for land use issues. Revised 1972. Pub. #155. 8 pp. 20/$1.00.

Order from League of Women Voters of the U.S., 1730 M St., N.W., Washington, D.C. 20036 Pub No. 190, 30¢

GROWTH and land use: shaping future patterns

CURRENT FOCUS

Growth takes many forms; forms that are interrelated, forms that have reciprocal effects on one another. Economic growth is tied to population growth. Both are linked to physical growth—the design and number of our ever-growing stock of manmade structures. All three affect and are affected by spatial, or geographic, growth—where we place those structures. Everyone is familiar with the fact, for example, that higher incomes and more people have been generating demand for land development—more homes, larger homes, second homes, swimming and tennis clubs, shopping centers, schools, power plants, industrial parks, streets and roads.

Linked though they are, these multiple dimensions of growth should not be lumped together as if they were meshed in an unchangeable set of relationships. In fact, some of the most fruitful thinking in recent years on the subject of growth has emerged from the attempt to sort out and understand the impact of various strands.

Economists, demographers and planners of assorted stripe are challenging old assumptions about causation and asking: Do we really want to keep up traditional rates of increase in economic and population growth? Where and in what form could growth be absorbed? If present linkages between physical, spatial, economic, and population growth were disengaged, what new patterns might form?

Nowhere have iconoclastic questions been coming faster than in the land use sphere. Until recently, sheer physical and spatial growth was viewed unequivocally as advance. Now, increasing concern over its costs—economic, environmental and social—has motivated people to explore new ways to shape the future form of development. The focus is not only on the location and distribution of physical and spatial growth but also on its form, timing, scale and quality. By shaping these dimensions of growth, growth management experts suggest that it may be possible to have the best of two worlds—to accommodate acceptable economic and population growth while curbing the ill effects of inefficient land development.

Experts and citizens alike are saying: We want to take a fresh look, to find out if past trends and patterns really are inexorable. We want to test some new growth management techniques to find out if we might be able to have our cake and eat it too: have the kinds of growth we want without suffering unwanted side effects.

This CURRENT FOCUS canvasses some of the new thinking. It outlines emerging trends in growth management at local, state, regional and federal levels, sketches several innovative attempts to guide the direction and quality of growth and takes a look at their implications for growth management.

The need to manage physical & spatial growth

The impact of government on the growth process

What are the dynamics of physical and spatial growth? What causes development to occur in a particular location, at a particular time and rate, and in a particular form? The present pattern of land development is the product of many cumulative decisions—those of individual private developers and those of a myriad of local, regional, state and federal government bodies. Though private and public development decisions may be distinct, they are by no means separate; government decisions—to spend defense dollars in a particular location, for instance—are important factors in stimulating private decisions to expand or invest in new development.

It is often hard to get a handle on individual, private decisions to develop. But the actions of the public sector are more visible, and hence, somewhat easier to control. Three basic government powers—to spend, to regulate and to tax—can affect growth and development in significant ways.

The federal government, by virtue of its vast fiscal resources and scope, clearly plays a leading role. Whenever it provides or extends services, selectively locates public installations and offices, or offers subsidies in the form of grants-in-aid, revenue sharing or loan guarantees, it is affecting land use decisions and property values. Its tax powers also exert enormous influence on growth in the country, albeit less directly than its spending power. Finally, its power to regulate—through restrictions and controls—can very explicitly channel or direct growth into certain locations, patterns and forms.

State and local governments have major roles too. Within their respective provinces they make countless decisions:

—about how much to spend for public services and where to provide them—everything from water to roads and sewers to schools;

—about how to regulate and guide land use;

—about how to meet the costs through property taxes, sales taxes and income taxes.

Certain kinds of government activities have proven to have especially significant impact on the physical and spatial form of growth.

Public services and facilities Decisions to build public works play a major role in shaping land development patterns. For example, a decision to build a highway can

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trigger a cluster of familiar side effects. It can stimulate construction of industrial and commercial facilities, particularly retail trade in the form of large-scale shopping centers, service stations, motels, restaurants and drive-ins. It can lead to new bedroom communities for commuters. And it can cause the decline of business districts in bypassed neighborhoods.

Citizens need only look about them to realize the great impact of other major public works and infrastructure investments that make vacant land areas more attractive and accessible for development—interceptor sewer lines, waste water treatment plants, water storage and diversion facilities in arid areas, mass transit, airports, flood control dams, schools, parks and recreation facilities.

Other large-scale developments Personal observation can also make evident the shock waves that large-scale developments can generate. The building of power plants, shopping centers, mining facilities, industrial parks, deepwater ports—often the product of a mix of public and private decisions—brings in tow substantial industrial, commercial, and residential development. Rural areas find it especially hard to cope with a development boom, because they lack the capability to plan, regulate and provide services for the accompanying secondary growth. The media are reporting almost daily what happens onshore, wherever offshore oil and gas drilling begins—as communities adapt to the construction of refineries and petrochemical industries, along with demands for housing, schools and other public services for the new workers and their families. So also in rural areas of the western U.S. where extensive coal mining and power plant construction will generate a series of boom towns across an arid, vulnerable landscape.

Taxation Taxes can provide incentives for some kind of development and disincentives for others. For example, by allowing property taxes and interest payments on mortgages to be deducted from income taxes, the federal government promotes low-density, single-family housing development. When it allows new buildings to be depreciated more rapidly for tax purposes than older buildings, it promotes the construction of more new buildings and less rehabilitation of older buildings in existing neighborhoods. Local property taxes may be administered in such ways as to promote premature development in otherwise rural areas, or to speed the abandonment of housing in the cities, or to exclude land uses that do not produce high revenues from property taxes, such as low-income housing.

Regulation A web of codes, ordinances and standards—most of them of local origin—sway the direction and shape of development. Enforcement of health and building codes, zoning and subdivision regulations can directly restrict development by imposing specific requirements for the "public health, safety and welfare." Federal regulations to control air and water pollution, by requiring that certain kinds of activities meet air and water quality standards, influence the siting, scale or timing of particular developments.

The costs of sprawl

People are just beginning to understand the environmental, economic and social consequences of various land development patterns. Mounting evidence suggests that these costs are heavily influenced by the particular location, pattern and type of development a community may choose to foster.

A 1974 study, *The Costs of Sprawl*, by the Real Estate Research Corporation, attempted for the first time to quantify—for both the neighborhood and the community—the costs of three alternative land development patterns. Six prototype neighborhood and community development patterns were analyzed. The models differed in the type of housing built (from six-story "high-rise" apartments to detached single-family housing) and the amount of development "clustering." Each neighborhood contained 2,500 housing units and each community had 10,000 units, equivalent to a population of 33,000 people.

The results of the study, although tentative, were startling. To serve the same number of people, the low-density sprawl community consumed twice as much land as a high-density planned community; for residential, commercial, and transportation uses. And the high-density community contained more public open space.

Certain caveats should be noted:

☐ Because the study refers to no specific location, the set of assumptions underlying the estimates may not occur in their entirety anywhere.

☐ The study predicated new development at the urban fringe, where an absence of such facilities as roads and schools before development was assumed.

☐ In conducting such a study, it is difficult to account for full costs of public services, atypical side conditions, population composition and sharply varying construction costs. Location and particular design characteristics would have major impacts upon these estimates.

☐ Critics have pointed out that housing in high-density development is smaller, land costs and pollution concentration are higher under compact development, and vertical sewer, waste, and transportation systems are often substituted for horizontal ones in high-density patterns.

Economic The study analyzed six types of public and private costs: residential, open space/recreation, schools, streets and roads, utilities (sewer, water, storm drainage, gas, electric, telephone), public facilities and services (police, fire, solid waste collection, library, health care, churches, general government) and land. The surprising conclusion was that the low-density model had dollar costs nearly twice as great as those for the high-density planned community, with especially large increases in costs for housing and for roads and utilities. Where initial investment costs were compared, those for the low-density community proved to be one-third greater. Its operating and maintenance costs were slightly higher than those in the high-density planned community.

Environmental Air and water quality, as well as energy and water consumption, can be significantly affected by development patterns. The low-density community produced nearly twice the amount of air pollutants (related primarily to transportation) and a third more water pollution (primarily from sedimentation); however, because it used less land, the concentration of those pollutants was somewhat higher in the high-density community. The low-density community also used a third more water and a third more energy (as a result of greater automobile use and residential heating)—both striking results in an era of droughts and energy shortages.

Social Social costs and impacts are hard to quantify, although it is clear that the homogeneity of traditional low-density sprawl has imposed certain limits—on low-income and minority housing, on employment opportunities and on cultural programs. While other factors such as personal space and privacy are less clear, *The Costs of Sprawl* study generalized that high-density development is likely to have more varied design, safer transportation patterns, more open space, more activities for group participation, additional public services and a more heterogeneous population. (Other studies would argue that low-density developments serve important social goals, such as the raising of families.)

Emerging trends in growth management

As the effects of growth on land development become more widely recognized, citizens are trying to strengthen government's hand, to enable it to manage growth effectively. Growth management is defined as the deliberate attempt by government to influence the rate or timing, amount, type, location and quality of future development in ways that maximize the benefits while minimizing the social, economic and environmental costs. Growth management is directly related to land management, since nearly all of the major growth characteristics, such as timing or location, are tightly tied to control of land use. Over the years, states have delegated to local governments the authority to control land use, primarily through zoning. But good growth management is more than just zoning; it involves a much broader range of issues or impacts and a broader array of control techniques to implement the program. Growth management systems use planning, investment-program staging, taxing and regulation—in many permutations—to influence all the growth characteristics; whereas traditional land use controls may focus on selected growth characteristics or limited issues such as location or type of development.

The federal government continues to abstain from direct involvement in broad-scale land use management and growth guidance. But, as noted earlier, through the vast impacts of federal programs and projects it has had potent influence on the timing, location and quality of growth. State governments are beginning to reassume direct responsibility for growth management, by setting up new state-level mechanisms for coordinating growth policy or by helping localities develop their growth management skills.

At the local level: new techniques

Local governments are experimenting with growth management devices that combine traditional tools, such as zoning, with new approaches. Few localities, however, have set up a systems approach to comprehensive growth management where all techniques are coordinated in an effective manner. Because some of the newer techniques are being challenged or overturned by courts, communities find that they must move with great caution, giving special care to the design, goals and social impacts of any such program. Those that seek to balance development needs with environmental and social values, rather than stop all development permanently, seem to be faring best in court tests.

Traditional zoning, the dominant land use control, assigns specific uses to particular land areas. By separating residential, commercial and industrial uses and by imposing limits on building height, density and lot size, zoning restricts the amount of land available for a given use. The restrictive emphasis of zoning has in the past prevented communities from experimenting with innovative patterns of development, such as mixed uses, and it has been used to exclude low-cost housing for the poor, especially in the "bedroom" suburbs.

Now, additional growth management techniques are coming on the scene. Some are variations of traditional zoning; others use different control and evaluation techniques. A sampling of techniques is presented below. One caveat: some are so new that their effectiveness cannot yet be determined; others, though older, are just beginning to be used by localities. Many techniques are used in tandem; for example, a community may use preferential assessment alongside planned unit development ordinances.

Planned Unit Development PUDs allow the developer to mix differing uses and densities, subject to negotiation between the developer and the community's planning department. In contrast to the segregation and inflexibility of conventional zoning, PUDs can result in mixed use, with innovative design and more open space.

Incentive zoning is a form of zoning that allows developers to escape one or more zoning constraints if they do something else that the community wants done, in exchange. For instance, a taller building might be a trade-off for some public open space.

Special-purpose district SPDs, another form of zoning, can be used to protect existing uses, such as historic, cultural or social areas threatened by new development. Developers in SPDs may be given special bonuses or incentives for meeting SPD regulations. (This use of the term should not be confused with SPDs that are actual units of government—a mosquito-abatement district, for example.)

Donation or purchase of development rights Landowners can voluntarily donate certain development rights to a public agency, thereby restricting further development and obtaining special tax privileges in return. Or developers may be required to cede certain parcels for public purposes, such as street easements, school properties, and so forth. Similarly, a local government may purchase, not the land itself, but a landowner's right to develop land, with the title to the land remaining with the original owner. For example, a community could buy out a landowner's rights to *develop* a historic property, ensuring that the land and structures are not changed but allowing *ownership* of the property to remain with the original owners.

Transfer of development rights TDRs constitute another way of distinguishing ownership from development rights. In such a system, government grants landowners certain development rights, which developers may buy and sell within the limits set by the locality's master plan. For example, a landowner wishing to develop in a high-density zone could purchase additional development rights from a landowner in a low-density zone. Or, if a government were to limit development in one zone, it would allow an owner to move his frozen development potential to a more appropriate district.

Public land acquisition and land banking Local governments can buy large parcels of land and "bank" them, to control the kind and rate of development. A community can hold the banked land, or it can rent or sell it to developers at an appropriate time, with specific controls on the character of the development.

Moratoriums Communities have begun to impose moratoriums on various phases of development. A common version is a temporary ban on new building permits or sewer connections until a new treatment facility is built. Legally, a permanent ban is hard to impose unless a community can prove the urgency and need for it.

Preferential assessment A locality can realign its assessment practices to encourage certain kinds of behavior by landowners. For example, it can reduce property taxes on farms, historic areas or other lands deemed valuable for preservation. Experience with preferential assessment programs has shown that they must be designed with special care to avoid unintended results. Such programs should include conversion penalties or contractual agreements that prohibit development, although some contend that these restrictions are difficult to require in practice. Preferential assessment could be used in conjunction with other techniques, such as zoning.

Timed development program Communities have attempted to stage development by phasing timing and location of new public services, such as sewers, roads, schools and fire stations, and by allowing development only where adequate public facilities exist. For many places, such timed development of major public investments is emerging as a key technique. See the case study below for an account of one community's experience with timed development.

These new techniques and others already in use or emerging hold promise for the future. But few growth management experts would argue that they can meet community needs if merely applied one by one. To date, however, few communities have developed an effective, comprehensive system for growth management—and *system* is the critical word. The communities that are moving in this direction are not finding it easy. Court cases have marked each step of the way, as the town of Ramapo, New York can attest.

A case in point: Ramapo, New York

Ramapo, a town of 60 square miles in Rockland County, 35 miles north of Manhattan, consists mostly of single-family homes. When population soared from 35,000 to 77,000 in the sixties, the rapid growth produced sprawl, rising taxes and a scarcity of low-income housing. In 1969, Ramapo set up a long-range development program to phase residential development, by putting its own capital improvements on an 18-year schedule. Ramapo coordinates the addition of all public facilities—sewage, drainage, schools, recreation and park facilities and improved roads—according to a definite timetable. Every proposal to develop any residential subdivision of two or more lots is subject to approval by the town board. It is evaluated according to a point system based on the readiness of the site for development—that is, on the amount of public services available at the site or the number of services the developer is willing to furnish. Once a developer gets a sufficient number of points for a particular site, a special permit is given to start the development process, including applying for site plan approval and building permits.

The Ramapo program has been upheld in court on the basis that a limited rate of expansion is necessary in order to provide adequate public services and protect the "public health, safety and welfare." Aware that its plan was subject to court challenges on the grounds of exclusion of low-income housing, Ramapo specifically provided a phased program of low-income housing. In general, as the Ramapo case illustrates, courts have upheld a community's attempts to slow growth where:

☐ the halt is temporary.

☐ the community wishes to buy time, in order to get a handle on growth, rather than stop all growth permanently.

☐ the plan is not intended to exclude minorities; rather, it makes specific provision for minority and low-income persons by including sufficient low-income housing.

At the regional level: cooperation

Regional units of government, such as regional planning agencies, councils of governments and area coordinating councils, are becoming more involved in growth management. In general, regional bodies are advisory only; many have planning powers but lack the necessary authority to enforce plans. Among the arguments that favor strengthened regional planning, the most frequently cited are these:

☐ A broader perspective is necessary, to balance areawide costs and benefits, when the actions of one locality affect a neighboring community, as in the case of imbalanced patterns of low-income housing in a metropolitan area.

☐ More rational planning of natural resources is possible, for political boundaries of single local jurisdictions rarely coincide with the natural boundaries of such units as air sheds and river basins.

☐ Regional planning makes it possible to supply public services such as water supply, waste treatment, transportation and schools, more efficiently.

Regional agencies have a far greater potential than any single community for coordinating the many government activities that affect the physical and spatial patterns of growth. For example, the San Francisco Bay Conservation and Development Commission regulates land use along a 100-foot strip around San Francisco Bay and coordinates dredging permits with state and federal agencies. The state of Florida requires that a regional planning district review local land development decisions having regional impact, with a state override if regional interests have not been considered.

A case in point: the Twin Cities growth framework

The Twin Cities Metropolitan Council is a unique form of regional or areawide government. Established by the state of Minnesota, it has some important powers to enforce land use plans. In March 1975, the Metropolitan Council adopted a Development Framework Guide, to promote orderly growth in the metro area, a 3,000-square-mile region containing seven counties, over 190 municipalities and 300 separate government units. In essence, the council requires localities to develop plans that conform to the Development Framework, which establishes urban and rural service areas according to a carefully staged public facilities timetable. The council's review powers over metropolitan sewage and transit facilities make implementation of the Framework possible.

The Development Framework evolved as a result of a public controversy over plans for a regional transit system. A number of citizens realized that the way in which key planning issues were resolved—such as the cost, location, timing and kind of system—would establish growth patterns for years to come. While this debate was going on, the council was building a metropolitan sewer system that opened vast new areas of land to development. The sewer system assumed a policy of suburban sprawl; the transit system was being based on a policy of compact growth. Here was a conflict that had to be resolved.

The Development Framework did not arbitrarily limit total growth. Instead, it set out a pattern by which growth would be accommodated over the next 15 years within a specially defined regional public service area. As it is turning out, the phased extension of public services will encompass some 40 square miles beyond the 77 square miles for which such services were originally projected by 1980. More, not less, land will be available for development.

The council's work on growth management will not end here. A recently adopted Metropolitan Framework is another new piece in the region's array of management techniques. It compares public revenues and expenditures by level of government on a biennial basis and analyzes the effects that state and federal programs have on regional policy.

At the state level: acceptance of responsibility

Although states have traditionally refrained from direct guidance of land use and growth patterns, state actions clearly affect physical and spatial development. States control major public works programs (such as highways) and play a central role in economic development programs and resource/environmental management. Now some new trends are emerging.

States are recognizing that their growth and land use decisions interact with their decisions in other policy areas—the effects do not flow in one direction alone. The growth and land use choices of policy makers impinge on the quality of life, on population distribution, on civil rights, on economic vitality and on energy/resource conservation. States are beginning to surface and deal with these interrelationships:

☐ by articulating explicit growth policies;

☐ by devising new ways of assessing how seemingly unrelated state actions affect and are affected by land use decisions; and

☐ by working out methods for harmonizing conflicting goals.

Though states are the ultimate legal source of the power to regulate land use, they have always delegated these responsibilities to localities and usually have exercised little oversight. Now, some of the fruits of this hands-off policy have turned sour, and the need for a larger-than-local perspective and a stronger state role has become self-evident. Citizens are coming to agree that states may be able to guide growth more effectively and equitably than local communities—at the suburban-rural interface, for example, where land use controls are often weak or nonexistent; or where the impacts of large-scale development reach across local jurisdictions.

Among several states that have initiated growth planning processes, three approaches stand out: 1) selecting a future rate or model of growth, based on a range of alternatives, 2) identifying key growth problems in a state, and 3) staging public investment. In addition, state land management activities range all the way from zoning to protection of critical areas.

Some states' changing posture about economic growth is revealing. In the past, states listed economic development as a key function and worked diligently to attract new industry through promotional, financial and locational assistance. Even after states have formalized growth plans or policy guidelines, their economic development agency typically has been at odds with newly emerging environmental protection agencies.

States are beginning to set their own houses in order, by requiring impact assessments for their own projects or agencies as well as for local and private actions, by broadening their content to cover economic as well as environmental assessments and by emphasizing growth-inducing effects that individual projects may generate. Indeed, optimizing the benefits of economic development and environmental protection could be a major objective of future state growth management efforts. Still, most states have a long way to go before they have effective growth management programs on a comprehensive statewide or regional basis. So far, state controls over physical and spatial development tend to focus on selected types of land use. They are usually poorly funded and they generally lack regulatory authority.

A case in point: The Massachusetts Growth Policy Development Act

The Massachusetts Growth Policy Development Act of 1975 established a process for determining where state investments should be made and what areas should be given priority for conservation and development. Rather than impose a policy from the state level, the law encourages localities to take an active role in shaping state growth policy.

The act asks each of the state's 351 cities and towns to establish a local growth policy committee—made up of local elected officials, heads of various local agencies such as planning commissions,

public health boards, conservation committees and at least five citizens-at-large. Each committee prepares a statement of local growth problems and priorities. To encourage citizen participation, the committee is required to hold a public hearings, and to take into account any citizen concerns or comments.

The committee's report goes to the community's regional planning agency, which prepares a report summarizing local statements and adding a regional perspective. This regional report is subject to public hearing, too, after which it goes to the Office of State Planning. This office is responsible for preparing a summary report for a special State Growth Commission. After reviewing these three levels of reports, the commission makes action recommendations to the legislature and the governor. The entire policy-making process started in February 1976 and must be completed by November 1977.

At the federal level: some early models for coordination

Although, as noted earlier, the federal government has great clout when it comes to physical and spatial growth all over this nation, it bears little *responsibility* for the effects of its actions. The thousands of federal actions affecting land use—laws, projects, grants, loans, regulations and installations—have never been systematically coordinated. Most federal programs have been organized for single purposes or needs; most have been designed to respond to crises rather than to anticipate problems. As a consequence, we end up with federal programs that sometimes have conflicting objectives, in which the goals of one program cancel the benefits of another. To cite only one instance: Some observers argue that the impacts of the federally funded highway system run counter to federal efforts to improve the environment, save the cities and improve the lot of the urban poor.

Some claim the task of coordination is impossible. Some people are glad it isn't being done, saying that the federal level shouldn't get into growth management, because that is essentially a state or local matter. Somewhere between are those who maintain that the federal government, in view of its broad scope and influence, should accept some responsibility for effective growth management. At a minimum, they argue, it should set its own house in order, so that it can serve as a leader and a model for the nation. And many believe that it should give more incentives and direction, to encourage state, regional, and local levels of government to establish effective growth management systems. (A limited move in this direction failed in 1975, when a land use bill that would have helped states do some land use planning twice passed the Senate but ultimately did not reach the House floor.)

One example of federal lack of coordination can be found in the maze of planning requirements for various federal programs. A recent study concluded that some 48 federal programs require regional plans before projects can take place. Yet the geographic planning boundaries and the planning cycles or funding periods differ widely. In addition, since the federal government has never developed coordinated principles for planning, each planning document has different requirements. The A-95 review process outlined below is one attempt to harmonize federal programs with state, regional and local programs, and it could be a significant first step toward intergovernmental coordination.

A case in point: A-95 review

The A-95 review process takes its name from the fact that it was announced through the Office of Management and Budget's Circular No. A-95 implementing Title IV of the Intergovernmental Cooperation Act of 1968. Otherwise known as the Project Notification and Review System, A-95 review was designed to coordinate state, regional and local projects that are federally funded. Applicants for federal funds must notify a state clearinghouse (an agency designated by the governor) and a substate or regional clearinghouse. So must federal agencies initiating a local project. Clearinghouses must:

- ☐ evaluate the areawide impacts of the project as well as the consistency of federal plans with state, regional and local plans;
- ☐ notify all affected agencies in the jurisdiction; and
- ☐ notify affected citizens.

The A-95 review process could be a potent federal tool in coordinating federal-state-regional-local growth policies and assessing impacts before the fact. At present, OMB lacks two essential ingredients for fulfilling its potential. It doesn't have enough staff to monitor A-95 reviews and to check for federal agency compliance with A-95 comments. And the A-95 review umbrella has gaps: it covers only about half of the more than 400 federally funded grant programs that assist state and local governments.

A case in point: the coastal zone management program

The coastal zone management program, administered by the Department of Commerce, is a unique attempt to coordinate federal-state-local activities. Established by the Coastal Zone Management Act of 1972, the act seeks to help states, through grants-in-aid, to plan for and manage coastal lands and waters. Specifically, states must prepare and administer programs for the control of land and water uses, with the involvement of local government. The act stipulates that federal activities "must be consistent" with approved state programs. At the same time, to get federal approval, each state must consider certain activities of "national interest" as it prepares its coastal program—activities such as deep-water ports, national parks, historic sites, prime agricultural lands. If this program fosters mediation and coordination of federal with state activities, as originally intended in the law, it could be a pacesetter with significant implications for the design of future federal programs.

Will we shape our future?

What is the prognosis for growth management? Four problems impair the effectiveness of techniques both old and new:

- ☐ the will to manage growth just doesn't exist;
- ☐ growth management techniques, even when used, are applied in a fragmented way;
- ☐ procedures for evaluating development before it takes place aren't good enough; and
- ☐ mechanisms and requirements for intergovernmental coordination are missing.

Most governments have been passive about developing growth policies. Because government tends to operate on a crisis-to-crisis basis, it is hard for public officials and citizens alike to step back and look at the larger, long-term picture. Yet that broader perspective would seem to be essential, if we are to solve certain critical national problems—energy conservation or saving prime farmland, to cite only two. Concerned citizens have a job to do in convincing their neighbors and public officials to give up the typical crisis-to-crisis reflex and, instead, work for use of growth management techniques. Without citizen pressure, the resolve to think and act for the long span will never crystalize.

Even if that resolve is firm, the mere application of the new techniques described earlier—however apt they may be to their task—will not by itself meet the case. If growth management is to be a serious objective, government has to go the next step, to relate all its relevant policies, remote as well as proximate. Once a government knows where and how it wants to grow, it has to have orderly ways to relate, for example, its policy on taxes to its policy on investment in public infrastructure. And it must adhere to those ways in pursuit of its growth goals. A systems approach is imperative if a government is to be in a rational position to consciously harmonize the incentives and disincentives it creates for reaching those goals.

Another serious need is for better mechanisms to integrate overall planning with the narrower-gauge planning done by functional departments responsible for water supply, highways, sewers and parks. Other levels of government could do much more than they now do to help localities—which are responsible for most land use control—develop this capability for systematic comprehensive planning for the future.

Coordination between governments is just as necessary as coordination within a government. The interweaving of federal decision making with state and local policy can be a potent tool in shaping future development patterns, but the federal government has a long way to go just to set its own house in order.

Hindsight has absolutely no value in growth management. What governments need is the capacity to assess growth consequences before the fact. Such serious problems as falling revenues, rising costs of services and energy supply shortages may carry some unexpected blessings, if they prove to be the spurs that prod government to acquire this capability. Certainly the pressures from these problems, at every level of government, are not likely to ease. To follow up only one of those threads: No community, no individual will be immune, in the years to come, from the energy squeeze. Will the present pattern of sprawl development continue? The product of a host of incremental private and public development decisions, it could thwart the national goal of conserving energy, sap the nation's vitality and impair its well-being. Or will foresight and coordination within communities, between communities and among levels of government enable us to continue physical and spatial growth, but in ways less wasteful of our energy resources?

The decisions that governments make and the policies they pursue—severally or in concert—*will* shape our future as a nation. Will our many governments adopt deliberate growth policies? Will they look both separately and together at the various kinds of growth—economic, population, physical and spatial? Will they then develop a systems approach to integrate their actions in pursuit of the chosen goal? Will they set up the "ways and means" to shape the configurations of growth? The Advisory Commission on Intergovernmental Relations takes this affirmative view of physical and spatial growth management coordination:

Long term solutions must focus on a grand design of encouraging an urban growth that is more balanced, more beneficient, and less bumptious than has been perceived to date. By establishing a national urbanization [growth] policy, the three traditional levels of government—along with the private sector—can join in a bold venture of ending the stagnation of sparsity and curbing careening congestion. Such a policy can begin to unshackle the nation and its people from conventional approaches to urban development—to free them from the near determinism that has sapped their sense of mastery over the physical [built] environment and social problems.

Resources

Background reading

Advisory Commission on Intergovernmental Relations. **Improving Urban America: A Challenge to Federalism,** 1976, 283 pp., (paper), free. Examines causes of urban problems today; recommends new urban development and growth strategies. Also, **Regionalism Revisited: Recent Areawide and Local Responses,** 1977, 58 pp., (paper), free. Reviews status of substate regionalism; recommends new approaches. Both available from the ACIR, 726 Jackson Pl., N.W., Washington, D.C.

Bateman, Worth, and George E. Peterson. **Metropolitan Development Patterns,** on press, due late 1977. Urban Institute, 2100 M St., N.W., Washington, D.C. An important study of development patterns that must be read in conjunction with *The Costs of Sprawl.*

Council on Environmental Quality. **The Growth Shapers: The Land Use Impacts of Infrastructure Investments,** 1976, 71 pp., (paper) $1.30, USGPO. Relationship between infrastructure and land use; the role of public facilities in the development process.

Godschalk, David R., David J. Brower, Larry D. McBennett, and Barbara A. Vestal. **The Constitutional Issues of Growth Management,** 1977. 295 pp., (paper) $7.95. American Society of Planning Officials, 1313 East 60th St., Chicago, Illinois 60637. Growth management law; suggestions for developing legally defensible growth management programs; case studies of typical local growth problems and techniques.

Healy, Robert G. **Land Use and the States,** 1976, 244 pp., (paper) $2.95. Resources for the Future, Inc., Johns Hopkins University Press, Baltimore, Maryland 21218. Comparative look at three significant state land laws: California (1972), Vermont (1970), and Florida (1972).

Mandelker, Daniel R. **The Zoning Dilemma: A Legal Strategy for Urban Change,** 1971, 96 pp., $9.50, Bobbs, Merrill, Indianapolis, Indiana. Surveys problems and progress of zoning with recommendations for improving the process.

Miner, Dallas D. "Growth Management: Locals Poised for Action," **Environmental Comment,** February 1976, entire issue, $1.00. Also "Coordination of Development Regulation: Untangling the Maze," May 1976, entire issue, $1.00. Urban Land Institute, 1200 18th St., N.W., Washington, D.C. 20036. Both readable!

Real Estate Research Corporation for the Council on Environmental Quality. **The Costs of Sprawl,** 1974. **Summary,** 15 pp. (paper) 55¢. **Retailed Cost Analysis,** 277 pp., (paper) $2.90. **Literature Review,** 300 pp., (paper) $3.25. USGPO. Analysis of prototype development patterns; assessment of economic, environmental and social costs of different patterns. (See also Bateman and Peterson.)

Scott, Randall W., David J. Brower and Dallas D. Miner. **Management and Control of Growth,** 1975. 1782 pp., (paper, three volumes). $22.50. Urban Land Institute, 1200 18th St., N.W., Washington, D.C. 20036. Anthology of over 140 articles; cross-section of physical growth management issues, techniques, problems, trends. Basic and comprehensive. Try your library.

Seldin, Maury. **Land Investment: Analyzing the Purchase and Sale of Urban Land,** 1975. 242 pp., $5.00. Dow Jones-Irwin Inc., Homewood, Ill. Rewards and risks of investment in land development; forces that cause changes; dynamics underlying private sector decisions.

So, Frank. **Local Capital Improvements and Development Management: An Interim Report,** October 1977. 125 pp., (paper), free while supplies last. Office of Policy Development and Research, HUD, Washington, D.C. 20410. Discusses role of capital facilities, effects, legal issues.

U.S. Department of Housing and Urban Development. **1976 Report on National Growth and Development,** 1976, 151 pp., (paper). Biennial report analyzing trends in national growth. **State Growth Management,** 1976, 83 pp., (paper). **Urban Growth Management,** 1976, 31 pp., (paper). Each free, while supplies last, from Publications Service Center, Room B-258, HUD, 451 7th St., SW, Washington, D.C. 20410.

Related LWVEF publications

Coastal Zone Management Program (CF), 1975, 6 pp., Pub. #572, 35¢. National policies set in the CZM Act; rewards and requirements for participating; problems ahead on facility siting and federal/state coordination.

Energy and Our Coasts: The 1976 Coastal Zone Management Amendments (CF), 1977, 6 pp., Pub. #699, 40¢. Reviews newly enacted legislation; identifies key issues and ways for the public to participate.

LAND USE: Can We Keep Public and Private Rights in Balance? 1974, 32 pp., Pub. #585, 75¢. Exploration of basic national land use issues. Our land use history, tools to control land use, the pros and cons in making land use decisions and the possible realignment of governmental roles.

LAND USE LETTERS. Each zeroes in on a specific land use topic: 1, "Our National Forests: Can They Meet Future Needs?," April 1975, 8 pp., Pub. #583, 25¢; 2, "One-fifth of Our Nation's Land: Leftovers or National Resource?," May 1975, 6 pp., Pub. #587, 25¢; 3, "One-fifth of Our Nation's Land: How Should It Be Used?," May 1975, 6 pp., Pub. #588, 25¢; 4, Mining on Federal lands," July 1975, 8 pp., Pub. #555, 25¢.

MORE? The Interfaces Between Population, Economic Growth and the Environment, 1972, 44 pp., Pub. #104, 75¢. Outlines the relationships among population, environment, employment, renewable and nonrenewable resources, national and regional economic development. Concerns for urban development, transportation, land use policy and national growth.

Shaping the Metropolis, 1972, 36 pp., Pub. #133, 60¢. Lively quotes from conference on decentralization and regionalism as alternatives to making government in urban areas more responsive and effective.

Supercity/Hometown U.S.A.: Prospects for Two-Tier Government, 1974, 138 pp., Pub. #477, $1.95. This Praeger paperback focuses on two-tier government in metropolis—at the regional level, at the neighborhood level. Who approves? Who questions? Gives alternatives, including case studies of citizen efforts to solve some metro problems.

Researched and written by Alice Klavans, former LWVEF staff specialist on Land Use.

This publication is the third in the LWVEF's series on growth. In print are *Growth: An Invitation to the Debate* (Pub. #146, 40¢) and *Growth and Housing: Connections and Consequences* (Pub. #192, 40¢). Still to come: a publication on water supply, one on energy and one on the urban crisis. A wrap-up piece will close the series, which is supported by a grant from the Rockefeller Brothers Fund.

Order from League of Women Voters of the United States, 1730 M Street, N.W., Washington, D.C. 20036 Pub. No. 204, 40¢.

1730 M STREET, N.W., WASHINGTON, D.C. 20036 TEL. (202) 659-2855

Xerox for Borg, Poppleton, Foley Minnesota

memorandum

JUL 5 1977

League of Women Voters Education Fund

July 1, 1977

TO: Selected State League Presidents

FROM: Holly O'Konski, National Land Use Chairman

RE: Plans for Pass-Through Grants to State Leagues to Conduct Projects on Coastal Zone Management

In response to our May 2nd memo to State Presidents outlining a program of pass-through grants, we are receiving a number of excellent proposals to conduct coastal management projects. To date, though, we have not heard from your League and are wondering whether you are planning to submit a proposal for a coastal management grant. If your League is interested in a pass-through grant, please let us know as soon as possible on the form below. In addition, because the project time is short (July - December 1977) we must set a deadline of August 1, 1977 for receipt of all proposals. (If, however, this deadline is difficult for your League to meet, please call the Land Use Department COLLECT at 202-296-1770 ext. 258 or 259 and we will try to make other arrangements.)

We hope your League is planning to conduct a project on coastal management and look forward to working with you on it.

Please return this form to the Land Use Department, League of Women Voters Education Fund, 1730 M Street, N.W., Washington, D.C. 20036

_____YES _____NO Our League would like to conduct a grant on coastal management and is planning to submit a proposal.

If yes, by what date: _____

_____YES _____NO Our League is not interested in conducting a grant on coastal managment.

This form was filled out by _____

(Name, League)

JUL 6 1977

League of Women Voters Education Fund • 1730 M Street, N.W., Washington, D.C. 20036 Tel. (202) 659-2685

memorandum

July 13, 1977

TO : State League Presidents and Coastal Zone Management Grant Managers

FROM: Holly O'Konski, Land Use Chairman

RE : The Relationship Between the LWVEF's Coastal Zone Management Project and the Energy Education Outreach Project

At the CZM conference in Washington, D.C., June 13-15, there were inquiries about possibly combining the state CZM grant of $1,000 with the Energy Education Outreach grants from the Consortium and the Energy Research and Development Administration (ERDA). While we recognize the interrelatedness of the subject matter dealt with in these grants, we have decided it will not be possible to merge the CZM and energy grants into one project because of separate reporting requirements and differing time schedules. For example, we expect the CZM grants to start this summer while the energy projects will probably not be initiated until late fall. CZM grant projects must be completed by December 31, 1977 while the energy projects may continue until May 1978.

At the same time, we want to encourage, and not discourage you to design your CZM project so that it complements and/or supplements and does not duplicate other projects. If your state League has more than one LWVEF grant project using pass-through funds, the state board may want to consider forming a project committee of appropriate program persons to oversee the various grants, to assure communication between/among grant managers and to assure that projects are developed that do not duplicate efforts. Or you may wish to consider appointing a projects chairman, either on or off board, to oversee the various projects.

League of Women Voters Education Fund •1730 M Street, N.W., Washington, D. C. 20036 Tel. (202) 659-2685

memorandum

TO: State Land Use Chairmen (or Natural Resources Coordinators)

FROM: Holly O'Konski, Land Use Chair

DATE: April 7, 1978

This mailing includes a collection of items relating to land use. I trust you will make certain the items get to the appropriate individuals in your state League. I also hope you will communicate to your local Leagues any of the enclosed information which you believe may be of interest to League members.

LAND USE AND THE COURTS

Through the years we have tried to find a way to settle land use issues and disputes before they are taken to court. Mediation, a process developed at the University of Washington, is the latest method that is being tried. However, the courts continue to play an important role in shaping land use decisions and legislation at all levels of government. According to the August, 1977 issue of Environmental Comment, in an Urban Land Institute publication titled "The Courts and Land Use", Professor Norman Williams reports there have been over 10,000 recorded court opinions dealing with land use controls. These decisions are heavily concentrated in 13 states--Massachusetts, Rhode Island, Florida, Texas, California, Illinois, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Ohio and Michigan. Interestingly, according to the publication, the Supreme Court made five land use decisions from 1926 - 28, no decisions between 1928 and 1974, and seven decisions since 1974. This review gives you a glimpse of the direction being taken in the courts on land use issues.

In addition to the brief review of court cases, this publication includes an article on "Regional Councils: An Organization to Devise Remedies?", which discusses the nature and scope of regional agencies in the United States and the role the federal government has played in promoting regional councils. Two recent examples of federal legislation requiring a regional approach to planning are the Federal Water Pollution Control Act (FWPCA) 208 program and the 1977 Clean Air Act requirements for non-attainment areas.

The 208 water pollution program is also mentioned in the most recent LWVUS letter regarding the President's Reorganization Project for natural resources which is included in this mailing. The letter enclosed, (a follow-up to the January 13, 1978 letter in which LWVUS presented its recommendations on how to organize the natural resources and environmental functions of the executive branch,) specifically adresses the proposed changes for Sections 201, 208, and 404 of the FWPCA.

STATE LAND USE PLANNING

Land use planning is taking different forms in various states. A few have passed comprehensive land use legislation, some are attempting to preserve agriculture lands,

a few have industrial siting legislation or plans. The coastal states, aided by the federal Coastal Zone Management program, are preparing coastal management plans. Three states, Oregon, Washington and California already have their plans certified by the federal Office of CZM. Thirty state Leagues, including those of the Great Lakes states are finishing CZM citizen informational projects, using pass-through grants from the LWVEF.

I am enclosing a publication from the Cooperative Extension of Ohio State University, "Land Use Policies in Selected States", a recent account of what is happening in Florida, Oregon and Vermont (states with comprehensive land use legislation). This serves as a follow-up to Robert Healy's book Land Use and the States, which the LWVUS Land Use Department sent to state Leagues last year. The enclosed publication also reviews New York's agriculture districting law and describes a proposed transfer of development rights bill in New Jersey. Michigan and Massachusetts have urban development programs, and California recently prepared an Urban Development Strategy which received the Governor's approval.

PUBLIC LANDS

As a result of legislation passed in the last few years, a considerate amount of planning for the use of public lands is taking place. Some Leagues near public lands are involved in these planning programs. The pamphlet enclosed describes the progress in planning under the 1974 Forest and Rangeland Renewable Resources Planning Act (RPA) for use of Forest Service Lands. You will note the opportunity for public involvement in the 1980 update of the program which was first submitted to Congress in 1976. The Forest Service is also engaged in the Roadless Area Review and Evaluation, RARE II, an inventory of proposed wilderness lands.

The Bureau of Land Management (BLM), as a result of the 1976 Federal Land Policy and Management Act, is identifying wilderness areas among its 470 million acres. The National Park Service is also going through a similar process. We hope to inform you about these programs and opportunities for public review in our upcoming series of Land Use Briefs.

The first Land Use Brief, due out soon, will focus on the Alaskan lands issue, the most important public lands legislation before Congress this session. For those of you that would like an in-depth review of public lands, I refer you to the excellent series of Land Use Letters that LWVUS published in 1975.

I assume all of you have received the land use contribution to the series of growth publications out this past year, "Growth and Land Use, Shaping Future Patterns". Growth management at the local, regional, state and federal levels of government is reviewed.

If you have any comments or questions on the contents of this packet, please feel free to write me at the national office. I welcome your suggestions.

land use letter

Setting New Goals For Our National Forests

The timber and mining industries, recreational developers, conservationists and other public groups have been battling for years over how our national forests should be used. The controversy revolves around these questions: *How much should our national forests be logged to meet the demands for housing, paper and other wood products? How much forest land should be developed for recreation and preserved for wilderness uses? How much mining for coal, uranium and other minerals should be allowed in national forests?* As manager of the nation's 187 million acres of national forests, the Forest Service, in the U.S. Department of Agriculture, (USDA), is struggling to resolve these conflicts.

Under the Multiple Use-Sustained Yield Act of 1960, Congress directed the Forest Service to manage national forests for timber, minerals, forage, water, recreation, wildlife and fish, to meet the continuing needs of the American people without impairment of the land. However, conservationists contend that over the last two decades, the national forests have been managed primarily for timber production while other uses have been neglected. For example, more money has been budgeted annually for timber production than for recreation, watershed protection or any other use.

To help resolve this conflict, Congress has passed two additional laws that provide the framework for establishing a balanced forest management program.

The Forest and Rangeland Renewable Resources Planning Act (RPA) of 1974 requires the Forest Service to evaluate its forest management program every five years, consider alternative management approaches, and propose long-range program goals and directions. The major purpose of the RPA program is to ensure an adequate supply of range and forest resources while maintaining the integrity of the forests' environment. For example, in 1976 the first RPA program set annual target levels for forest products and services, such as timber harvests, recreational opportunities and wilderness, for the next five years and beyond.

The National Forest Management Act of 1976 established guidelines and required regulations for forest planning and for such silvicultural practices as clearcutting (removing all trees from an area instead of selectively removing only mature or diseased growth), timber harvest levels, timber production from marginal lands, rotation age (age at which timber can be harvested) and stand diversity (the mix of different tree types in a forest). The Forest Service has drafted, but not yet finalized, regulations for bringing each forest's plan into conformity with this law.

In addition, the Carter administration has directed the Forest Service to accelerate its identification of those roadless and undeveloped forest areas that are the best candidates for inclusion in the National Wilderness Preservation System. This planning program is called the **Roadless Area Review and Evaluation (RARE II).**

This publication describes how RPA, RARE II and the new NFMA regulations together will help shape future national forest management decisions and how citizens can participate in Forest Service planning programs and influence those decisions.

Background on the national forests

In 1975, the League of Women Voters Education Fund published *Our National Forests: Can They Meet Future Needs?*, the first in the LAND USE LETTER series. It examines the issues, history and laws that affect our national forests and explains why these forests are important to all Americans. It is still an excellent source of background information on Forest Service activities and management problems. It also contains a map of national forest lands of the United States.

Setting goals

Of all the legislation passed, RPA is likely to have the most far-reaching impact on the National Forest System because it will help determine how every forest resource—timber, recreation, wilderness, minerals, wildlife habitat and others—is managed over the next four decades.

Under RPA, the Secretary of Agriculture must prepare an *assessment* of the renewable resources on the nation's forests and rangelands and a *program* for managing Forest Service lands; the secretary has assigned this responsibility to the Forest Service. The first assessment and program were submitted to Congress in 1976 and are now being updated for 1980. After 1980 the assessment will be revised every ten years and the program every five.

The assessment includes an inventory of the nation's forest and range resources, an analysis of the long-term supply of and demand for these resources and ways to increase and extend these supplies. The program outlines several alternative directions and a rationale for determining the recommended program. Each alternative program direction consists of different intensities and mixes of resource uses; one may recommend low levels of market (timber or minerals) production and low levels of nonmarket (recreation, fish and wildlife, etc.) activities; another, high levels of both these uses. Quantifiable targets are developed for each alternative program and a certain portion of each target is assigned to each Forest Service region in the country.

For instance, the 1975 program emphasized dispersed recreation (hiking, hunting and fishing, as opposed to developed campsites), timber investments on the most productive sites and improvement of wildlife diversity and numbers. Specific targets aimed at achieving these broad goals included increasing recreation visitor days for dispersed recreation from 125 million in 1977 to between 176 and 220 million annually by 2020; improving acres of wildlife habitat from 175 million in 1977 to between 2,195 and 2,744 by 2020; and increasing timber yield from 2.7 billion cubic feet in 1977 to between 3.33 and 4.07 by 2020.

One of the major purposes of RPA was to insure sufficient federal spending to make a balanced management program possible. However, as an anti-inflation measure, President Carter proposed a 1979 Forest Service budget substantially below RPA goals in most categories. The budget adopted by Congress provides timber-sales funding at 85 percent of its RPA goal; recreation, fish and wildlife, reforestation and other programs are funded at 50- to 72-percent levels. This obviously skews forest management to-

ward timber production—something RPA was designed to avoid. Apparently, the Administration's suggestion that national forest timber sales be increased to combat inflation influenced Congress's decision to appropriate more money for timber production than for other uses. (See box on "Timber and Inflation.")

In 1977, the Forest Service published the assessment outline and proposed alternative program directions for the 1980 RPA program. After public review of these documents, the Forest Service made revisions and published a progress report. The procedure for completing the 1980 RPA assessment and program is described below.

Step 1 In early 1979, the Forest Service will publish the draft assessment and the draft program (which will incorporate a draft environmental impact statement) and will publicize their availability in the newspapers and other media. Citizens will be able to obtain copies of these documents from the national or regional offices of the Forest Service and from federal depositories (see FYI, page 4). The public will have 90 days from the date of issue to review and comment on the draft documents.

This draft program will not include a recommended program; the Forest Service wants to know which alternatives the public prefers *before* selecting a program direction. In addition to public opinion, the environmental impact and economic effectiveness of each alternative and the Forest Service's professional judgment will influence which alternative is chosen for the 1980 program.

Step 2 After analyzing public comments on the drafts, the Forest Service will develop the final assessment and a recommended program which will include the final environmental impact statement (EIS). The Secretary of Agriculture will then give these documents to the President for his review and approval.

Step 3 The President will submit the assessment and recommended program to Congress in early 1980, along with a policy statement explaining how the program will influence budget requests for the Forest Service over the next five to ten years. Congress has 90 days to review and comment on the documents; any serious differences between Congress and the Executive must be resolved before the program becomes official USDA policy.

The Forest Service will make the RPA assessment and program documents available to the public at the same time Congress receives them. Summaries of these documents will automatically be sent to those who commented on the draft assessment and program. Anyone can request copies of the summaries or full-length documents from regional Forest Service offices. If citizens have strong objections to the final RPA program, they should write their members of Congress and urge them to request certain changes.

Preserving wilderness values

Under the 1964 Wilderness Preservation Act, wilderness areas can only be created by an Act of Congress; however, congressional action is based on the Administration's recommendations. So far Congress has included over 17 million acres of public land (175 units) in the Wilderness Preservation System. Although the lion's share is in the national forests (15.2 million acres) and is therefore managed by the Forest Service, some wilderness lands are administered by the U.S. Fish and Wildlife Service or the National Park Service.

In the early 1970s, the Forest Service initiated Roadless Area Review and Evaluation, a study to identify roadless areas that were the best candidates for inclusion in the Wilderness Preservation System. From an inventory of 1,449 roadless areas totalling 56 million acres, the first phase of RARE identified 274 potential wilderness areas, containing 12.3 million acres, for further study.

However, since Congress had to appropriate money for each study, evaluation of these areas proceeded at a snail's pace. In addition, as a result of a Sierra Club lawsuit, the Forest Service agreed to do environmental impact statements on all roadless areas *not* selected for further study before designating them for uses other than wilderness. After several years of studies and little progress, citizens and public officials began to lose patience. They also found the initial inventory of potential wilderness areas incomplete, particularly because RARE did not adequately consider national forests in the East or national grasslands as potential wilderness areas.

To speed up the allocation of roadless areas to wilderness and other uses, the Carter administration asked the Forest Service to initiate a new inventory and evaluation process: RARE II.

The second inventory included about 2,700 areas in 38 states, totalling 62 million acres of national forest land. In 1977 the Forest Service held workshops across the country where citizens reviewed the inventory and suggested criteria to be used in selecting potential wilderness areas; the draft EIS on RARE II was issued in June 1978. This statement presented ten alternative approaches that sorted roadless areas into wilderness, nonwilderness and further-planning categories. The alternatives ranged from taking no action, to proposing all roadless areas for wilderness classification, to allocating all roadless areas to nonwilderness uses.

According to the draft EIS, final forest management decisions will be based on these criteria:

- public agreement on the allocation of an individual roadless area;
- the 1975 RPA wilderness goal (25 to 30 million acres of wilderness—15.2 million of which has already been established);
- the impact of allocations on national issues, such as energy independence, inflation and housing starts;
- economic costs associated with allocating roadless areas to wilderness uses (i.e., loss of timber sales, unemployment in local communities);
- the wilderness quality of each roadless area (whether it represents a major landform or ecosystem); and
- whether or not the area would increase the diversity of the National Wilderness Preservation System.

Environmental groups have severely criticized the draft EIS. They believe that the alternatives presented are grossly slanted in favor of large nonwilderness designations; that the data on timber values and other resources are dated and unreliable; and that, while the EIS details the economic costs of wilderness, it gives no attention to the costs to taxpayers of nonwilderness alternatives such as timber-sale preparation and replanting. (For instance, in some cases wilderness protection may cost the taxpayers less money than managing the same forests for timber or intensive recreation.) Critics also claim that the Forest Service cut corners to meet its schedule and that the three-and-a-half-month public review period for the draft EIS was too short, considering the magnitude of the decisions to be made. However, the timber industry stresses that wilderness studies have tied up valuable timber lands for too many years and that RARE II should be completed as quickly as possible.

During October 1978, the Forest Service evaluated public comments and issued a National Direction, including tentative allocations of roadless areas to wilderness, nonwilderness or further-planning categories. Regional foresters reviewed the allocations, made changes based on public opinion in their regions and their own professional judgment and sent their analyses to Washington in November. The chief of the Forest Service and the Secretary of Agriculture were to combine these regional analyses and issue the final EIS, including recommendations for wilderness allocations, in January 1979. Summaries of the final EIS will be sent to all individuals who commented on the draft. Copies of the full length document will be available at the national and regional Forest Service offices and at federal depositories.

Since there is little public agreement over the allocation of many roadless areas, some officials are predicting that 50 percent or more of the roadless areas will be listed in the further-planning category. These areas will be managed for nonwilderness uses, but no road building or other activities will be allowed that would prevent these areas from being designated as wilderness later in the planning process. As land-use plans for each national forest are developed over the next five to seven years as required by the new Forest Service regulations, final decisions will be made on how to designate those roadless areas in the further-planning category and how areas designated nonwilderness will be managed. In order for the Forest Service to recommend more than 14.8 million acres for addition to the wilderness system, the Administration will have to set the 1980 RPA goal for wilderness allocation at a higher level than the 1975 ceiling of 30 million, since 15.2 million acres of national forests have already been included in this system.

Congress may consider the Forest Service's RARE II recommendations by individual area, on a statewide basis or in a national package. Minor boundary adjustments may be proposed at congressional hearings.

New Forest Service regulations

In August 1978 the Forest Service issued draft regulations under the National Forest Management Act (NFMA) that set up a new planning system for national forests and establish standards for such management practices as clearcutting and timber harvest levels; the public comment period closed on December 16, 1978. Unless major revisions are made in the regulations, the standards will defer many important forest management decisions, such as the size of clearcuts, to the regional or local level in the Forest Service hierarchy.

By participating in the development of regional and individual forest plans, citizens can help determine how these regulations are implemented. Contact your nearest Forest Service office to find out when regional or individual forest plans will be drafted and how citizens can be involved.

As drafted, the regulations would make each national forest the basic planning unit, establish regional plans as an intermediate step between National Forest land management plans and the RPA program, and require local Forest Service planning to show how it will be linked to the national RPA program. The regulations require citizen participation in the development of these plans. By October 1985, all national forest lands should be covered by plans developed under these regulations.

The most controversial section of the proposed new regulations sets standards for forest management practices. The timber industry believes that the guidelines on silvicultural practices are an appropriate reflection of the requirements of NFMA and give Forest Service field managers sufficient flexibility to respond to on-the-ground conditions. Environmentalists, on the other hand, are far from satisfied. At a public meeting on the new regulations in September 1978, environmental groups argued that the proposed standards are too weak and fail to implement fully the mandate of NFMA. Major criticisms focus on the following management issues.

Clearcutting The regulations state that "clearcutting may be used only when it is determined to be the optimum method of silviculture for a specific forest type. . . ." Optimum method means that it is "the system which is most favorable and conducive to the achievement of multiple-use goals specified in the forest plan." Environmental groups were disappointed that instead of setting specific nationwide limits on the size and spacing of clearcuts, the regulations deferred those decisions to the regional or local level.

Sustained yield and departures In NFMA, Congress established "nondeclining sustained yield" as a national policy. (See "Timber and Inflation" box.) However, Congress left a loophole for the Forest Service to "depart" from nondeclining yield occasionally—that is, raise timber harvest levels in a national forest for a specific period of years to a production level that cannot be sustained in the future. Under the proposed regulations, the Forest Service will consider departures from nondeclining yield in the formulation of each multiple-use forest management plan. Environmental groups argue that forest plans should be developed and approved using only nondeclining yield and that departures

Timber and inflation

In an April 1978 anti-inflation speech, President Carter called for increased timber harvests as a means of holding down lumber prices and housing costs. He asked a special interagency task force to report to him within 30 days on how to achieve this objective.

Since then, several draft reports have been developed but none has received approval from the oft-divided interagency group, which includes representatives from the Agriculture and Interior Departments, the White House Domestic Policy Staff, the Council on Wage and Price Stability, the Office of Management and Budget (OMB) and the Council on Environmental Quality.

The major disagreement among participants involves the issue of departing from the *nondeclining sustained-yield* timber sale provisions of the National Forest Management Act. Sustained yield is the maximum amount of timber that can be cut each decade on a national forest without jeopardizing future production. Thus, under NFMA provisions, harvest levels cannot be increased in a given forest if the increase will so deplete the supply as to cause a decrease in future harvest levels.

OMB and Office of Wage and Price Stability officials favor departing from this nondeclining yield policy to increase available lumber supplies. Since national forests in the Pacific Northwest contain by far the most attractive stands of harvestable softwood (pine, fir, spruce—woods most often used in housing construction), the timber industry is especially anxious to accelerate cutting in this region.

On the other side are those who wish to stabilize the local timber economy in the Northwest by keeping production at a rate that can be sustained indefinitely. The Forest Service has indicated that it would prefer to go no further than to increase timber sales to meet 1979 RPA goals.

Another major argument among task force members focuses on whether stepped up cutting of timber from national forests would significantly reduce lumber prices and thus housing costs. The Congressional Budget Office (CBO) has calculated that a 20-percent increase in annual harvest of national forest timber would decrease the costs of a single family dwelling house by about 1.1 percent in 10 years. Thus, it concluded that the effect of increased sales of national forest timber would have a relatively minor impact on housing prices. CBO's calculations were based on the belief that an increase in public supply would induce a decrease in private supply. Indeed, past experience has shown that when lumber dealers have the opportunity to get more timber from public lands, they tend to let their private lands "sit in the bank."

As an alternative, the Forest Service and other committee members favor stimulating private rather than public timber production. They point out that 82 percent of the nation's inventory of commercial timberlands and 75 percent of its currently harvestable timber are outside national forests.

The final interagency report is likely to recommend three basic strategies to Carter:

- conservation (modification of local building codes to reduce demand for wood in new housing and development of new technologies that reduce demand for timber);
- increased timber production on private lands; and
- increased supplies from federal lands on a selective rather than an across-the-board basis.

should be considered later, if appropriate, in a supplemental statement. How departures are handled will determine how quickly old-growth forests throughout the West will be cut and may have a profound effect on wilderness allocations and multiple-use management in the coming decades.

Marginal lands In NFMA, Congress asserted that "timber mining"—logging of fragile, unproductive or remote forest lands—should no longer be permitted since it causes long-term site degradation for all uses. The law directed the Forest Service to determine which lands were marginal and should be removed from timber production. The proposed regulations, however, provide little guidance for determining site and slope conditions that make certain areas economically or environmentally unsound for timber production. The Sierra Club and other groups have insisted that strong physical and economic criteria should be included in the regulations.

Diversity In response to citizen concern that national forests are being converted into vast single-species tree farms or "monocultures," Congress required the Forest Service to provide for diversity of plant and animal communities in forest plans. Conservationists wanted the regulations to contain an affirmative definition of ecological diversity and to specify appropriate measures—such as increasing rotation ages in portions of a forest—to provide for the diversity that the act requires. Instead, the regulations do little more than repeat the language of the act.

In addition, many environmental groups felt that an EIS on the regulations should have been prepared, in order to clarify the environmental impacts of the proposed standards and alternatives.

The final regulations are scheduled to be issued March 1, 1979.

In brief: what you can do

Over the next year, the Forest Service will be making important decisions that will shape the management of our national forests for decades to come. Citizens can influence these decisions by:

- Reviewing the final EIS for RARE II (to be issued in January 1979);
- Reviewing and commenting on the 1980 draft RPA assessment and program (to be released in February 1979—90 days for public review);
- Monitoring the implementation of the new NFMA regulations at the regional and local levels (to be issued in March 1979);
- Following the progress of anticipated RARE II legislation through the 96th Congress. Write your member of Congress and tell him/her what you think.

FYI

Our National Forests: Can They Meet Future Needs? LAND USE LETTER #1, April 1975, LWVEF, 1730 M St., N.W., Washington, D.C. 20036. Pub. No. 583, 25¢.

Common Ground: Changing Values and the National Forests. A 29-minute color film documentary by the Conservation Foundation, 1717 Massachusetts Ave., N.W., Washington, D.C. 20036 ($10 rental fee or may be borrowed free from regional Forest Service offices.)

Single copies of the following are free from the U.S. Forest Service, Office of Information, South Agriculture Building, 12th & Independence Ave., S.W., Washington, D.C. 20250.

- *1980 Draft Assessment Element Outline* (as required under the Resources Planning Act)
- *Proposed Alternative Forest Service Program Directions and National Goals*
- *RPA and You*
- *The Resources Planning Act: A Progress Report*
- National Forest System Land and Resource Management Planning Regulations, *Federal Register,* Volume 43, No. 170, August 31, 1978, 39046-39059.

Federal Depository Libraries—These are libraries that make available most federal documents. A list of federal depository libraries is available free on request from Library, Public Documents Department, Government Printing Office, Washington, D.C. 20402. University libraries may also have copies of these documents.

Regional Forest Service offices

The Forest Service regional offices listed below will be glad to send you information, answer questions, or keep you informed of opportunities for public involvement. The states included in each region are indicated in parentheses.

Northern (ID, MT, WA)
Federal Building
Missoula, Montana 59801
(406) 329-3771

Rocky Mountain (CO, NE, SD, ND, WY)
11177 W. 8th Avenue
P.O. Box 25127
Lakewood, Colorado 80225
(303) 234-4185

Southwestern (AZ, NM)
517 Gold Avenue, S.W.
Albuquerque, New Mexico 87102
(505) 766-2444

Intermountain (UT, ID, NV, WY)
324 25th Street
Ogden, Utah 84401
(801) 399-6176

California
630 Sansome Street
San Francisco, California 94111
(415) 556-1932

Pacific Northwest (OR, WA)
319 S.W. Pine Street
P.O. Box 3623
Portland, Oregon 97208
(503) 221-2971

Eastern (IL, IN, MI, MN, MO, NH, OH, PA, VT, WV, WI)
633 W. Wisconsin Avenue
Milwaukee, Wisconsin 53203
(414) 224-3640

Southern (AL, AR, FL, GA, KY, LA, MS, NC, SC, TN, TX, VA)
1720 Peachtree Road, N.W.
Atlanta, Georgia 30309
(404) 881-4191

Alaska
Federal Office Building
P.O. Box 1628
Juneau, Alaska 99801
(907) 586-7484

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Order from League of Women Voters of the United States, 1730 M Street, N.W., Washington, D.C. 20036. Pub. No. 266, 30¢.

Preserving America's Farmland

NR NATURAL RESOURCES CURRENT FOCUS

After World War II, instead of growing corn or even trees, agricultural land on the edges of cities started producing another kind of cash crop—suburban tract houses. "Low-grade urban tissue," planner Lewis Mumford called it.

Each year some one million acres of prime farmland—that is, land best-suited for producing food, fiber and other crops—are converted to urban uses. Scattered development breaks up and isolates another million acres, making commercial farming of this land impractical. If this rate of conversion and checkerboarding continues, some experts think that our ready reserves of high-quality farmland could be depleted by the early 1990s.

As prime farmland disappears under shopping centers and highways, farmers are starting to cultivate marginally productive land that is vulnerable to wind and water erosion and more demanding of fertilizers and tractor fuel. Raising crops on this land is costly for the farmer, the consumer and the environment.

In the past, high levels of agricultural productivity increased by heavy fertilization and hybridization have helped offset any losses in prime farmland. But overall yields per acre seem to have leveled off and may even be declining. Uncertain weather patterns, competition for water, air pollution, energy costs and scarcities of fertilizers, fuels and other supplies have all limited agricultural production.

What is becoming clear is that, as higher levels of productivity are needed to meet world food needs, and yields per acre are not increasing, then the supply of prime farmland itself is crucial to maintaining our food production base.

This publication outlines factors contributing to the loss of farmland, describes current state and local programs for preserving farmland and evaluates the effectiveness of these efforts.

Loss of farmland

Urban pressures

Since the 1940s, people have been moving out of cities into nearby rural areas where they build houses and commute to work. Manufacturing firms and other businesses have also been locating on the urban-rural fringe.

As development starts to occur in a rural community, a chain of events is often set into motion. First, the cost of land begins to rise, often pushed upward by real estate speculation. As land values increase, so do property taxes and estate and inheritance taxes. Under the pressures of higher taxes and tempting offers from developers, some farmers sell their land or in the case of many western farmers, their water rights.

As the number of farms in an area declines, the important support industries, such as feed and grain dealers and farm equipment outlets, begin to leave because there simply is not enough business to support them. Farm labor becomes more expensive and scarce as higher-paying jobs in the city come within reasonable commuting distance and compete for the rural labor force.

Farmers slowly find their political strength draining away as suburban and nonfarm residents dominate local government. These new residents begin passing ordinances that restrict such farming practices as fertilizer use and manure disposal. They also increase both assessments and tax rates to pay for new schools, roads, utilities and other services, and they use the right of eminent domain to acquire farm property for these structures.

Once farmers are convinced that their area will eventually be urbanized, they often stop investing in improvements in their farms. They idle some farmland and raise crops that do not require great investments. Finally they sell their land, using the proceeds to retire or to buy another farm in a more remote rural area.

In sum, urbanization creates economic and social pressures that make farming difficult, if not impossible, and leads to the conversion of productive farmland to other uses.

Change of lifestyle

Some farmers sell their land because they are tired of working long hours and getting a poor dollar return on their land and their labor. They want a 40-hour-a-week job at a good salary and all the conveniences of urban living.

Age is another factor that influences a farmer's decision to sell. In the past, when a farmer retired, children usually continued farming the land. Now the younger generation is often not interested in farming as a way of life. And, sometimes a farm family may need to sell the land to fund their retirement or to pay taxes.

Government activities: inadvertent impacts

A wide variety of government activities have had the unintended but nonetheless powerful effect of removing large amounts of prime farmland from production or causing the conversion of this land to urban uses. For example, many federal programs provide support for the public purchase of farmland for highways, dams, reservoirs, outdoor recreation facilities and other structures. Local governments, with the assistance of federal grants and loans, may locate sewer and water lines near agricultural land, causing the development value of this land to increase. Local zoning and other regulatory activities may permit and, in some cases, even encourage the development of prime farmland because this land is considered "undeveloped."

League of Women Voters Education Fund
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Washington, D.C. 20036

Preserving farmland

In an effort to preserve prime farmland, state and local governments are experimenting with both direct and indirect controls: economic incentives to farmers, regulatory restrictions on land use and purchase of development rights.

Indirect controls

Differential assessment

Forty-six states now have laws or constitutional amendments that permit local governments to assess farmland at its value for agricultural use, rather than at its market value for development, which is sometimes much higher. The three types of differential (reduced) assessment programs are outlined below.

Preferential assessment is taxation of land on the basis of farm value. To qualify, land must meet some agricultural-productivity or open-space criteria such as minimum acreage, soil fertility and so on.

Deferred taxation is preferential assessment designed to recover taxes that would have been paid if a change in land use occurs. For example, 24 states have "rollback" provisions calling for collection of back taxes if a farmer sells his land for uses other than agriculture. The time covered by the rollback varies from 2 to 10 years, and 9 states charge interest on these back taxes.

Restrictive agreements combine preferential assessment with legally enforceable land-use restrictions. Typically, restrictions are for 10 years; the owner must give several years notice and sometimes pay a stiff penalty if he intends to develop the land. For example, the 1965 California Land Conservation Act authorized counties and cities to offer preferential assessment in return for a 10-year contract through which the landowner agrees to keep the land in agricultural use. The contract automatically renews each year for an additional year unless the owner notifies the local government of intent to terminate the contract. After such notice, the contract continues for nine more years. Property taxes start increasing immediately, reaching full market assessment by the end of that time.

In general, differential assessment programs work by shifting some of the burden of real property tax in a particular jurisdiction from farmers and other owners of eligible land to all other taxpayers.

How effective is differential assessment as a method for preserving agricultural land? A 1976 Council on Environmental Quality (CEQ) report is pessimistic. It concludes that a reduction in property taxes probably deters only about one percent of all farmers from selling their land for development. A 1978 National Science Foundation (NSF) study conducted by the Regional Science Research Institute in Philadelphia reached a similar conclusion. Both studies showed that, in the short run, differential assessment may slightly slow the rate of change-over in urban fringe areas but that it is not effective in the presence of sustained demand for conversion of land to suburban uses.

For instance, although voluntary restrictive agreements in California have reduced the conversion of land in areas where landowners have joined the program, little land near urban areas is enrolled. Most farmers currently on the urban fringe want to preserve their option to sell.

Based on these findings, the CEQ report made these recommendations:

☐ All differential assessment laws should have features to recover back taxes from farmers who develop their land. The rollback period should be at least 10 years and, preferably, the entire period during which tax savings were enjoyed. Interest should be charged on back taxes.

☐ States that mandate differential assessment by units of local government should provide at least partial compensation for the tax losses which result.

Tax deterrents

One way to discourage subdivision of farmland is to put a capital-gains tax on land sales. (Capital gain is the difference between the amount originally paid for the land and the selling price.)

Vermont's 1973 land-gains tax is based on a sliding rate schedule, with short-term holders heavily taxed and those who hold land over six years not taxed at all. The tax rate also increases with the percentage gain. For example, the highest capital gains tax rate is 60 percent on land held less than one year with a two-hundred percent value increase. Development sites up to 5 acres (and up to 10 acres where local zoning requires) are exempt. The state uses the revenues from this tax to finance a tax relief program for farmers.

The NSF study did not find Vermont's land gains tax to be an effective method for preserving farmland. Because of the declining rate schedule, the tax affects neither long-term investors in farmland nor farmers selling split-offs. Moreover, the profits from subdividing and developing farmland are so great that a 50 percent tax may not be a deterrent.

Estate and inheritance taxes

Before 1976, federal estate taxes were based on the market rather than agricultural value of farmland. As a result, the estate taxes were so high that heirs were often forced to sell all or part of the farms to pay them. To help alleviate this problem the Tax Reform Act of 1976 based farmland valuation on agricultural use up to $500,000 and stretched the time by which federal estate tax must be paid to 15 years. Several states have made similar revisions in their inheritance laws.

Direct controls

Purchase of development rights

State or local governments may purchase the development rights of farmland by paying the owner the difference between the market value and farm-use value of the land. The owner thereby gives up the right to develop the land for nonagricultural uses yet retains all other rights of ownership.

Suffolk County (Long Island), New York was the first local government to use this control. Under its Farmland Preservation Program, landowners submit bids to the county for the sale of the development rights to their land. A select committee reviews the bids and on the basis of several criteria (such as soil quality), recommends the acceptance of certain bids to the county legislature. If the legislature approves the bids, the county buys the development rights from the farmer. So far the county government has authorized $21 million in county bonds to buy development rights on 3,883 acres of farmland. County officials plan to continue the program through 1979 and eventually acquire about 15,000 acres at an estimated cost of $75 million.

Other county and state governments have undertaken or proposed similar programs. For example, New Jersey plans to use $5 million in open-space funds to buy the development rights on about 5,000 acres of farmland in four townships of Burlington County; if this pilot project is successful, the state may expand the program. King County, Washington has proposed spending over $50 million to buy the development rights on 32,000 acres of farmland surrounding Seattle. And Massachusetts and Maryland are experimenting with statewide programs for purchasing development rights.

Connecticut, Florida and other states have also considered such programs but have found the costs prohibitive. The Florida Department of Revenue estimated that purchasing the development rights of all land assessed at farm value in the state would cost the public $6 billion.

Direct purchase and lease back

Government units may also buy agricultural lands outright and then lease them back to farm operators. Several towns in Massachusetts, for instance, have leased over 800 acres of public conservation land to farmers. This purchase and lease-back system is part of a larger program to protect areas with high natural value; it was not established primarily to preserve farmland.

Right of preemption

If authorized, a government unit may exercise the right of preemption—first option—to buy agricultural lands when they come up for sale and then sell or lease the land to farm operators. Under such a program only those properties that come on the market and would be converted to an unacceptable use are purchased. The total number of purchases is therefore likely to be less than under the previous two methods.

France has a law authorizing the use of preemption for the purpose of preserving farmland, but this method has not been used extensively in this country. (New Jersey does have the right of first refusal in any sale of land that is subject to the purchase of development rights in Burlington County.)

Transfer of development rights

Transfer of development right (TDR) is designed to provide some compensation for landowners whose right to develop is restricted. In this program, the government assigns a number of development rights to each acre of land and then zones (or rezones) certain areas for growth and other areas such as farmland for no growth. Developers may be permitted a stipulated amount of increased density in the growth zone by purchasing the necessary number of development rights from farmers or open space owners in the no-growth zone.

Several localities, such as Eden, NY; Buckingham, PA; Sunderland, MA; and Calvert County, MD, have established TDR programs, but very few transfers have taken place so far.

A major drawback of TDR is its complexity; people have difficulty understanding how it works, and few local agencies have the expertise to implement it effectively. The TDR program is probably best suited for preserving farmland in small built-up areas where local control is needed. In a large nonurban region or state where thousands of acres of farmland might be zoned for no-growth, the supply of development rights would tend to be large relative to demand. This might lead to low prices and/or inadequate functioning of the development-rights market unless the government provided some form of price guarantee or outright purchase.

Exclusive farm- or rural-use zoning

Exclusive farm-use zoning differs from ordinary agricultural zoning in that much larger minimum lot sizes (e.g., 20-80 acres minimum) may be mandated, and uses unrelated to farm operations, including construction of dwellings, are usually prohibited.

Heidelberg Township, PA; Frederick County, MD; and several counties in California have adopted exclusive farm-use zoning ordinances. Hawaii and Oregon have exclusive agricultural zoning statewide,and California is considering similar legislation.

Since exclusive farm-use zoning restricts certain development rights without compensation, some communities have hesitated to use it. However, courts in California and Oregon have upheld its constitutionality.

Some planners have questioned the effectiveness of zoning to preserve farmland since many local governments will readily grant zoning changes to permit more intensive development. However, an NSF study conducted by the Regional Science Research Institute found that only a small number of changes have been requested in urban counties with exclusive agricultural zoning. The expense and bother of attempting to get a zoning change may discourage most potential developers.

Development permit system

Under development permit systems, certain types of development require a permit from the government, in addition to the usual zoning and building permits. A special commission may be set up to review development applications and, on the basis of certain criteria, determine whether or not to grant a permit.

California, Florida and Vermont have permit systems. For example, California's Coastal Commissions must approve developments on agricultural lands within a defined coastal zone. Vermont's District Environmental Commissions must determine whether a development significantly reduces the agricultural potential of prime farmland soils before granting a permit. In general, however, these permit systems regulate only a small portion of the development that occurs on agricultural lands.

Why preserve farmland?

To maintain adequate world food supplies. Demand for food in developing countries will increase by about four percent a year through the 1980s; food production growth rates will average only three percent a year.

To curb urban sprawl. Unplanned and uncontrolled development in rural areas is both costly and wasteful of land.

To assist in our balance of trade. Agricultural food exports comprised 20 percent of the total U.S. exports in 1976. The $23 billion received for these exports is almost identical to the cost of importing crude petroleum—$25 billion.

To maintain environmental quality. Farmlands absorb precipitation, replenish groundwater supply and reduce the amount of runoff during periods of high water. They can also insulate environmentally sensitive areas such as wetlands and flood plains from incompatible uses.

To maintain local diversified economies. The number of active farms in a region influences the viability of support services—agricultural supply, processing and marketing facilities that provide local jobs and tax income. These farms also supply nearby consumers with local produce at reasonable prices.

To protect against potential loss of agricultural production. Production per acre of farmland could decline with the continued erosion and loss of topsoil and climatic changes such as shifts in temperature and rainfall.

Federal efforts to preserve farmland

U.S. Department of Agriculture (USDA) Policy

In 1973 the USDA issued a general land-use policy that advocated the retention of prime farmlands. The Department's land use committee has recently drafted a stronger statement that says the USDA will intervene directly—through review of and comment on draft environmental impact statements and other authorized review procedures—when other federal agencies make decisions that cause the conversion of farmland to other uses. The USDA will also disseminate information and provide organizational leadership, planning and technical assistance to local or state officials, development groups and individual landholders to help them understand the social, economic and environmental implications of converting farmland to other uses.

Memorandum of Council on Environmental Quality (CEQ)

A 1976 CEQ memorandum asks federal agencies to analyze carefully the impacts of their activities on prime agricultural land and to make a special effort to protect these lands from conversion to other uses.

In response to CEQ's request, the Economic Development Administration of the Department of Commerce announced that it would require each applicant for a public works project grant to provide evidence that the Land Use Executive Committee of USDA has reviewed the plans and is satisfied that this project will neither have significant adverse impact on nor directly or indirectly cause the conversion of prime farmlands.

Also in response to CEQ, the Environmental Protection Agency (EPA) has drafted a policy statement that declares its intention to protect environmentally significant farmland from premature or unplanned conversion, through its programs and regulations. If the statement is adopted, EPA will direct its major offices to make sure their programs are consistent with the policy.

National legislation

Congress is considering legislation that would establish a commission to study the problem of farmland loss and provide grants to state and local governments for demonstration programs to retain prime farmland in production. The major stumbling block has been the cost of the demonstration programs—over $200 million.

Successful programs

In New York

Agricultural districts are geographic areas designated for long-term farming; they give farmers special benefits that help mitigate the spillover effects of urbanization and keep farming economically viable.

Under New York's agricultural districting program, farmers have voluntarily organized themselves into 355 districts representing over half of the state's farmland. These districts exempt the farmer from special tax assessments for sewer, water, lighting, or nonfarm drainage, restrict the local exercise of eminent domain, require the state government to consider the impact on farming before approving any public construction in the district, and prohibit local regulations that would unreasonably restrict or regulate farm structures or practices. Although participation in the program has been high, most districts have been formed in nonmetropolitan counties.

In Wisconsin

Under Wisconsin's Farmland Preservation Program, farmers can voluntarily sign contracts agreeing not to develop their land in exchange for state income-tax credits. However, after 1982, a farmer can continue in the program only if his/her county has adopted either a farmland preservation plan or exclusive agricultural zoning that includes his/her land. Urban counties (those over 75,000 population or adjacent to counties with over 400,000 population) *must* adopt exclusive agricultural zoning. Farmers in these zones are protected from special tax assessments for sewer, water or other urban public services.

Farmers who terminate their contract or remove their land from an agricultural zone must repay their tax credits for the last 20 years.

So far, five counties have established exclusive agricultural zones, and over 700 farmers have applied for tax credits. Wisconsin's program seems to be a workable compromise between local and state authority, achieved at a reasonable cost.

In Oregon

Oregon's 1973 Land Use Act requires local jurisdictions to set urban growth boundaries around cities and to zone all prime agricultural lands outside the boundaries for exclusive farm use. It also contains provisions to strengthen agriculture in areas zoned for exclusive farm use; these provisions prohibit local ordinances restricting farming practices, exempt farmers from assessments and levies of sanitary and water-supply districts, and allow agricultural land to be assessed at farm value rather than at market value for property and state inheritance tax purposes.

A major strength of Oregon's exclusive agricultural zoning program is that it is part of a comprehensive state land-use policy. When the city of Klamath Falls proposed to annex an adjoining 141-acre tract of prime farmland and zone it for residential development, landowners challenged the proposal in court. The state Supreme Court rules that the city was violating state land use policy and stopped the annexation action.

Summary

After evaluating farmland preservation methods, an NSF study team at the Regional Science Research Institute reached these conclusions.

☐ Direct land-use controls are potentially more effective than indirect controls in preserving farmland subject to strong urban pressures.

☐ Of the direct controls, the acquisition of development rights is less likely to be changed or weakened than zoning and other regulatory programs. Since the public cost of purchasing development rights can be quite high, researchers suggested spreading the cost out over many years by acquiring only those properties that come on the market and then selling them with restrictions.

☐ The most promising programs examined were those that combined direct and indirect controls and included these controls in an overall growth-management or land-use policy.

Questions to ask

Citizens who want to pursue the issue of farmland preservation in their own areas might start by tracking down the answers to these questions:

Are agricultural products and support facilities an important part of your local economy? (Check with your local or state economic development administration and chamber of commerce.) *Can you readily purchase a range of locally grown farm produce?*

How much farmland has gone out of production in your community in the last 10 years? (Consult the Soil Conservation Service office in your area and your local planning agency.)

Have urban pressures contributed to this loss? How?

Has your local or state government recognized loss of agricultural land as a major land-use problem? If yes, has it initiated special programs to retain prime farmland? How effective have these programs been?

Does your local or state government have a land-use or growth management policy? Does this policy advocate prime farmland retention? What other policies are needed?

What groups in your area might have an interest in farmland preservation? Have any local groups taken action on the issue?

Sources

National Science Foundation studies

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Related materials

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This CURRENT FOCUS is the last in a series of four on natural resources issues made possible by grant ISP76-80983 from the National Science Foundation. Any opinions, conclusions or recommendations expressed in the publication are the LWVEF's and do not necessarily reflect the views of NSF. Researched and written by Marjorie Beane, LWVEF natural resources staff specialist.

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memorandum

TO: State Land Use or Natural Resources Chairs (memo only to State Presidents)

FROM: Lee Carpenter, National Land Use Chair

RE: Proposed Forestry Regulations and Miscellaneous Matters

The Forest Service has recently proposed important regulations that set up a new planning system for national forests and establish standards for such management practices as clearcutting and timber harvest levels. We are sending you a copy of the proposed regulations and some background information to help you if you wish to submit comments. Public comments will be accepted until November 30, 1976. (The original deadline of October 30 has been extended for one month.)

The LWVUS plans to submit comments before the November deadline. After a preliminary review of the regulations, we have the following major concerns which you may wish to consider in making your comments.

Clearcutting

The regulations state that clearcutting may be used only when it is determined to be the optimum method of silviculture for a specific forest type.... Optimum method is defined as "the system which is most favorable and conducive to the achievement of multiple use goals specified in the forest plan." We think that the federal regulations should set a maximum size for clearcuts and require protective buffers by streams, lakes and wetlands. These important decisions should not be left to regional or local plans.

Sustained Yield and Departures

The National Forest Management Act of 1976 establishes "non-declining sustained yield" as a national policy. Sustained yield is the maximum amount of timber that can be cut each decade on a national forest without jeopardizing future production. Thus harvest levels cannot be increased in a given forest if the increase will deplete the supply and cause a decrease in production levels in the future. Such overcutting can adversely affect other forest resources as well as adjacent local economies.

But Congress agreed to allow exceptions or "departures" from the non-declining yield policy in some cases. To provide for exceptions, the proposed regulations allow the Forest Service to consider "departures" in the formulation of each multiple-use forest management plan. We think this policy might lead to extensive overcutting. Therefore, we believe that management plans should be drawn up using only the non-declining yield principle. If appropriate, departures should be considered later in a supplemental statement.

Illustration policy on departure will have particular significance for the management of old-growth forests in the West. In the past, these forests were too far away from lumber mills and roads to be commercially harvested. But now with the rise in lumber prices and new technological advances, the timber industry can cut these forests at a profit, and they're anxious to cut them

quickly. This rapid overcutting would, of course, call for departures from non-declining yield policy. Industry backs up their viewpoint by saying 1) the old trees aren't growing that much anymore and the younger trees that would replace them would grow faster, increasing the productivity of these national forests; and 2) increasing timber supplies could help bring down the costs of housing and help fight inflation.

But the results of this overcutting would be serious. Many of these virgin forests are prime candidates for wilderness. And it would take at least 90-120 years to establish new stands of timber.

Marginal Lands

In NFMA, Congress asserted that timber mining -- the logging of fragile, unproductive or remote forest lands -- should no longer be permitted and directed the Forest Service to determine which lands were marginal and should be removed from timber production. The draft regulations should therefore be strengthened to supply regional foresters with criteria to determine site and slope conditions that generally make timber production economically and environmentally unsound.

We have enclosed a brochure produced by the Natural Resources Defense Council for additional information about the regulations. If you decide to comment, we would appreciate receiving a copy of your letter at the national office.

As you surely know, the Forest Service is also in the midst of the RARE II (Roadless Area Review and Evaluation) study as well as working to fulfill the mandates of the Resources Planning Act. A publication that will update you on all these Forest Service activities will be published before the end of the year.

For Your Information

In addition to the regulation-regulated materials, four other items are enclosed for your information:

- LWVUS statement submitted to the Senate Energy and Natural Resources Committee Subcommittee on Parks regarding the "Urban Park and Recreation Recovery Act of 1978." (S.3136)

- LWVUS statement submitted to the President's Council on Environmental Quality discussing revised regulations for Environmental Impact Statements

- Two new LWVEF publications, Preserving America's Farmland and Improving the Environmental Impact Statement Process

- List of state NR, EQ, EM and LU Chairs for 1978-79.

Final Note

The National Land Use Committee members for this year are Margot Hunt, Pennsylvania; Eva Patten, Arizona; and Ann Sutton, Wyoming. The committee will meet in Washington November 14-16 at the same time the Energy and

Environmental Quality Committees meet. During part of that time we will meet together as one committee. We believe that this unified approach to our several NR program issues will result in stronger action possibilities and focus on the interrelationships among our various NR positions.

League of Women Voters Education Fund •1730 M Street, N.W., Washington, D.C. 20036 Tel. (202) 659-2685

memorandum

January 1979
THIS IS GOING ON DPM

TO: State, Local and ILO League Presidents

FROM: Lee Carpenter, Land Use Chair

RE: A new publication: Setting New Goals For Our National Forests

The enclosed publication, Setting New Goals For Our National Forests, continues the series of Land Use Letters begun in 1975. This series deals with a wide range of issues related to the management of public lands.

In the past three years Congress and the Administration have set the stage for a balanced forest management program. This seventh LU Letter describes how the Resources Planning Act, RARE II (Roadless Area Review and Evaluation) and the new National Forest Management Act regulations will help shape future national forest management decisions and how citizens can participate in Forest Service planning programs. With RARE II in the limelight and certain to be on the agenda of the upcoming Congressional session, we believe you will find LU Letter #7 timely and informative.

Please bring this publication to the attention of your League's Land Use and/or Natural Resources Chair. Recently appointed LU/NR Chairs will want to be sure they have four Land Use Letters, still extremely valuable today:

#1 Our National Forests: Can They Meet Future Needs? Pub #583, 25¢
#2 One-fifth of Our Nation's Land: Leftovers or National Resource? Pub #587, 25¢
#3 One-fifth of Our Nation's Land: How Should It Be Used? Pub #588, 25¢
#4 Mining on Federal Lands. Pub #555, 25¢
Coming soon: LAND USE LETTER #8, an update on some of the Bureau of Land Management's major programs.

land use letter

The BLM Organic Act

As of 1976 the Interior Department's Bureau of Land Management (BLM), administrator of 470 million acres of federal land, was operating under some 2,500 different laws—many of them antiquated and some in direct conflict with each other. In the absence of a coherent mandate, the BLM sometimes ended up piecing together provisions of various laws or operating under expired directives to devise land-management policies.

On October 21, 1976 after a decade of debate, Congress ended this piecemeal approach by passing the Federal Land Policy and Management Act (FLPMA), PL 94-579. This law, also known as the BLM Organic Act, makes a clear policy statement for the BLM. For example, it provides that:

- lands, for the most part, should remain in federal ownership and be managed on the principles of multiple use and sustained yield;
- users of publicly owned resources should pay fair market value; and
- management decisions should be made with full public involvement.

Although in many ways FLPMA merely formalized existing BLM procedures, the law is expected to bring about some significant changes by establishing new workloads and deadlines. According to the BLM, FLPMA has given "a new beginning" to many of the agency's traditional activities.

This LAND USE LETTER outlines the three major provisions of FLPMA that deal with land use planning, wilderness review and grazing policy and points out where citizens can have a voice in upcoming management decisions for these public lands.

Background

The BLM is among the newer federal land-management agencies, created in 1946 by a merger of the General Land Office and the Grazing Service. Although vast, the land holdings inherited by BLM were not generally of prime quality. For the most part, they were the leftovers—lands that the federal government had not been able to sell or give away. But now, there are new demands for use of these lands—for example, demands for increased energy supplies or recreation opportunities.

Among other federal holdings, today the BLM manages 174 million acres of land in the "lower 48," largely located in 11 western states, and 295 million acres in Alaska; 23 million acres are commercial forest land, and almost 174 million are used for grazing. BLM is also responsible for oil and gas leasing on the Outer Continental Shelf, but these activities are not covered by FLPMA and are not discussed here. (For extensive background information on the BLM, see LAND USE LETTERS 2, 3 and 4.)

Land use planning

Section 202 of FLPMA requires the Secretary of the Interior to prepare land use plans for all BLM lands based on the principles of multiple use and sustained yield. Multiple use calls for "the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people." Sustained yield requires that resources be harvested at an annual rate that can be maintained in successive years. Production levels cannot be so high in the short run that future production is jeopardized. A provision significant to conservationists requires that land use plans give priority to identifying and regulating areas of critical environmental concern; these regulations are scheduled to be issued in April 1979.

The land use plans are really the heart of much of BLM's decision making. For example, they will determine which tracts of land will be identified as suitable or unsuitable for mining or wilderness designation or available for disposal.

FLPMA spells out stiff disposal criteria. For instance, a tract of land must be uneconomic to manage; it must have been acquired for a purpose now obsolete; or disposal of the land must serve an important public purpose, such as expansion of a community, not achievable on other land. Congress can veto any sale involving 2,500 or more acres.

Congress also has veto power over any planning decision that excludes, for two years or more, any major use of a tract of land larger than 100,000 acres. The six major uses cited in the act are: domestic livestock grazing, fish and wildlife development, mineral exploration and production, outdoor recreation, rights-of-way and timber production.

Actually, BLM began a land use planning program in 1969 and by early 1978 had completed Management Framework Plans (MFPs) for 80 percent of its lands in the "lower 48." But FLPMA required new regulations for land use plans, and in December 1978 BLM published proposed planning regulations in the *Federal Register.* According to BLM, the resource management plans proposed in these regulations will be significantly different from their predecessors. For example, they will cover a much larger planning area. The average size of the 171 new resource planning areas is 950,000 acres; there is an average of three resource areas for each of BLM's 56 districts. The plans require greater consistency with existing state and local plans and uniform standards for public participation. They must be reviewed every five years and revised at least every 15 years. An environmental impact statement will be issued for each plan.

Since BLM worked closely with the Forest Service in drawing up these regulations, the proposed nine-step planning process (including terminology) is the same for both agencies, making it easier for citizens to monitor the work of each.

Existing BLM land use plans will remain in effect until new, replacement plans have been prepared. (The rate at which new plans will be developed depends on the level of funds available.) In the meantime, any actions taken under existing plans will be subject to environmental assessments and the full-scale environmental impact statement (EIS) process, if necessary, to make sure they are in keeping with new policies.

Wilderness review

Section 603 of the FLPMA requires the Secretary over the next 15 years to review all BLM roadless areas of 5,000 acres or more and all roadless islands for possible inclusion in the National Wilderness Preservation System. The Wilderness System currently includes over 19 million acres—approximately 15½ million managed by the Forest Service, 3 million by the National Park Service, 770,000 by the Fish and Wildlife Service and 12,000 by the Bureau of Land Management. These figures will probably increase in the next year if Congress acts on legislation

concerning Alaska National Interest Lands and recommendations from the Forest Service's RARE II (Roadless Area Review and Evaluation) wilderness study (see LAND USE LETTER 7 for details).

To qualify for wilderness status, areas must be roadless, be free from permanent improvements or human habitation and present outstanding opportunities for solitude or primitive, unconfined recreation. BLM has set up a three-step process to determine which of its lands should be recommended for this designation.

Inventory—to determine which areas have enough wilderness potential to become wilderness study areas.

Study—to determine, through the regular land-planning process (where wilderness will vie with other land uses), whether BLM should recommend an area as suitable or unsuitable for wilderness.

Reporting—recommendations to the President based on study results. FLPMA requires that mineral surveys be conducted for all areas being considered for wilderness.

As in all cases with wilderness designations, Congress has the final approval authority.

The inventory, scheduled to take two years, is itself divided into two phases. BLM is asking each of its state directors to make a "first cut" to identify areas that clearly do not meet wilderness qualifications so that restrictions on use of these areas can be removed as soon as possible. (Before any area is open to development, however, the public is given 90 days to comment and a public hearing must be held.) Most states are expected to make this cut by July 31, 1979.

The next year of "intensive inventory" will be spent weeding out other areas that do not meet wilderness criteria. By September 1980 all official Wilderness Study Areas (WSAs) will be identified.

Some conservationists think that the pace for the inventory is too fast and fear that many decisions will be made without adequate data or time for citizens to consider the full wilderness potential of such vast tracts of land.

Interim criteria for managing WSAs were proposed in January 1979. As specified by FLPMA, multiple-use activities that existed before October 1976 will be allowed to continue even if wilderness suitability is impaired. Any new clearcutting, strip mining or permanent road building is banned. In certain cases the criteria allow new oil and gas development, building of temporary roads, range improvements and access that may cause temporary impairment of wilderness attributes for as long as five years. (BLM has also proposed a separate set of regulations to control mining in WSAs, patterned on those developed by the Forest Service.) While most industry spokespersons think the criteria are too stiff, environmentalists are worried that temporary impairments may permanently disqualify these areas from eventual wilderness designation.

Range improvements

Before 1934 livestock operators grazed sheep and cattle on BLM ranges without government regulation. This led to overgrazing of the land, which, coupled with other abuses, left much of the public range in a seriously deteriorated condition. The Taylor Grazing Act of 1934 imposed some controls, most notably by requiring livestock operators to obtain permits and pay a fee.

Despite some improvements in the intervening 45 years, BLM estimates that only 17 percent of the 174 million acres of grazing land under its administration is in good condition; the rest is rated fair or poor.

The fees themselves are a subject of heated controversy. They are one obvious source of money to pay for reconditioning the public ranges to achieve soil stabilization, watershed protection and optimum forage production. But these fees historically have been set much lower than fees on private ranges. (Private rangeland is frequently in better shape, however, which may account for some justifiable discrepancy.) Livestock operators fear that fee increases will cause them serious setbacks. But BLM officials, backed by environmentalists, point out that grazing fees make up only a small percentage of the industry's costs and say that livestock operators should pay their full share towards range improvements, since they will benefit so directly from improved conditions.

In 1969, BLM and the Forest Service (which administers 102 million acres of public land with grazing potential) began a program of phased-in fee hikes with a goal of reaching fair market value by 1980. In 1976 FLPMA reaffirmed fair market value principles and called for a new study of the grazing fee situation. FLPMA further requires that half of all grazing fees collected be spent on range improvements and that half of this sum be spent in the areas where the fees were collected.

In 1978 Congress passed the Public Rangelands Improvement Act, PL95-514, a mixed blessing for the BLM. Although the law authorizes $365 million over the next 20 years for range improvements (to supplement user fees), it establishes a formula that allows grazing fees to be set at less than fair market value, by taking into account variables such as the price of beef and total costs of livestock operations. Environmentalists see this "ability to pay" approach as a continuation of a federal subsidy for livestock operators who use public rangelands.

As of early 1979 it was questionable whether the first installment of the $365 million authorized for range improvements would be appropriated, since no funding for this program was recommended in President Carter's austere 1980 budget. But Congress could decide to add in the necessary funds.

Grazing EISs

As a result of a 1975 lawsuit brought by the Natural Resources Defense Council, BLM must prepare EISs on allotment management plans, the cooperative agreements drawn up between BLM and livestock operators to determine grazing conditions. BLM is now on a court-ordered schedule to prepare 145 EISs, covering about 174 million acres of public grazing land, by 1988. BLM believes that these EISs will lead to reductions in the amount of grazing allowed. As with all EISs, the public will be given an opportunity to comment on both the draft and the final report.

What you can do

There are many ways in which citizens (all citizens, not just westerners) can participate in upcoming management decisions for public lands. For example:

- Send for a free copy of the *Wilderness Inventory Handbook* for an in-depth explanation of the inventory process and opportunities for involvement. If you live in a state where wilderness inventory is being conducted, write to your nearest BLM district office and ask to be kept up-to-date on the inventory progress.
- Get copies of the grazing EISs prepared for areas of interest to you. Review them and send your written comments to the BLM.
- Send for a copy of the new regulations for resource management plans. Find out when work will begin on an RMP for your area. Participate from first-step "issue identification."
- The Public Rangelands Improvement Act requires each BLM district to establish a multiple-use advisory council. Nominate someone to serve on the council for your area.

You can get all of the documents mentioned above from the Bureau of Land Management, Department of the Interior, 18th and C Streets, NW, Washington, DC or from the BLM state or district office nearest you.

More from the LWVEF on public lands

One-fifth of Our Nation's Land: Leftovers or National Resource? LAND USE LETTER #2, May 1975, Pub. #587, 25¢.

One-fifth of Our Nation's Land: How Should It Be Used? LAND USE LETTER #3, May 1975, Pub. #588, 25¢.

Mining on Federal Lands. LAND USE LETTER #4, July 1975, Pub. #555, 25¢.

Setting New Goals for Our National Forests. LAND USE LETTER #7, 1978, Pub. #266, 30¢.

All these publications can be ordered through the League of Women Voters of the United States.

Researched and written by Gail Allison, LWVEF Land Use department head.

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APR 16 1979

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memorandum

April 1979
Thsi is going on DPM

TO: State, Local and ILO Presidents

FROM: Lee Carpenter, Land Use Chair

RE: New LAND USE LETTER

This mailing brings you The BLM Organic Act, the latest in our series of LAND USE LETTERs. As many of you know, in 1976 with passage of the Federal Land Policy and Management (or BLM Organic) Act, Congress gave the Bureau of Land Management its first coherent mandate for managing nearly 470 million acres of federal land. This publication provides some information on BLM's new land use planning process, wilderness review and range management policy and points out where citizens can have a voice in upcoming decisions about public lands.

Please bring this publication to the attention of your League's Land Use or Natural Resources Chair and other community leaders, and make sure that all NR buffs have copies of the LAND USE LETTERs listed below that provide excellent, extensive background information on the BLM.

One-fifth of Our Nation's Land: Leftovers or National Resource? LAND USE LETTER #2, Pub. #587, 25¢.

One-fifth of Our Nation's Land: How Should It Be Used? LAND USE LETTER #3, Pub. #588, 25¢.

Mining of Federal Lands. LAND USE LETTER #4, Pub. #555, 25¢.

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April 17, 1979

To: Senator Jim Nichols, Chairman and Members of the Public Land and Water Resources Subcommittee, Senate Agriculture and Natural Resources Committee

From: Harriette Burkhalter, Chairman of the Council of Metropolitan Area Leagues of Women Voters (CMAL)
Betty Bayless, CMAL Legislative Action Chair

Re: SF 1032, Acquisition and Betterment of Regional Recreation Open Space by the Metropolitan Council

CMAL is an organization with approximately 3000 members in 35 communities within the seven county metropolitan area. We study and act on issues of regional concern and impact.

In 1972 we studied land use in the entire Twin Cities area. As a result, CMAL supports metropolitan-level planning, programs, and policies directed toward channeling development in ways that will (1) preserve and enhance the natural environment, (2) use public investment to the best advantages, and (3) provide area residents with diversity in choice of facilities and amenities.

CMAL evaluated the Metropolitan Council's Five Year Capital Improvement program for parks and open space in December, 1976. We supported this plan because it reflected a response to the needs of the people in the Metro Area based on development and redevelopment of existing regional parks located near and used by large numbers of people and also acquisition of those prime recreational areas under pressure from development.

In July 1978, CMAL supported an amendment to the Development Guide/Policy Plan for Recreation and Open Space, the Regional Trails Policy Plan. It provided for the development of our recreational needs now and for the future consistent with the LWV position.

Consequently, CMAL urges your support of SF 1032. We feel it provides a special opportunity for the state to support local units of government as well as the Metropolitan Council in the acquisition and betterment of regional parks.

League of Women Voters of the United States 1730 M Street, NW. Washington, D.C. 20036 Tel. (202) 296-1770

MAY 29 1979

May 24, 1979

Ms. Nancy Grimsby
Natural Resources Chair
LWV of Edina
5932 Wooddale Ave., South
Edina, MN 55424

Dear Ms. Grimsby:

In reviewing the land use sections of the Annual Reports, I have come across your questions regarding land use and what it covers.

Land use covers so many issues it is easy to understand why you asked. If you haven't used it, I would recommend Publication #565, Implementing the National Position on Land Use; it suggests both general and specific issues to which the national land use position can be applied--i.e., airport siting, housing projects, wilderness areas, shopping centers, parks and recreational areas, highways, industrial parks.

You asked about the Boundary Waters Canoe Area; the answer to that is easy because the League of Women Voters of Minnesota and LWVUS both supported HR 2820 (the Fraser bill) in 1977. (See enclosed letter of October 5, 1977.) In May 1978, LWVUS supported HR 12250 (the Burton-Vento bill).

Regarding power line disputes, I have not seen any descriptions of a local or state League involvement with this kind of an issue, but I can imagine there could be a proposed siting of a power line which would be inappropriate vis a vis a comprehensive plan and/or a zoning designation, and therefore, a League might choose to become involved.

The Northern Tier pipeline issue is one we hear a great deal about in Washington State, and the Clallam County LWV (where Port Angeles, the possible site of the Northern Tier pipeline is located) has been concerned about the decision-making process. There have been charges that the state siting council has violated some of its own procedures in making decisions. Because the route of the proposed pipeline may cut across many counties in Washington and even through cities' watersheds, I expect that several local Leagues, and perhaps the state League, will eventually become involved in this issue. At this point the actual route has not been settled on.

You are absolutely correct about the inability of separating land use issues from other natural resource areas. Recognizing this, the land use, energy and environmental quality departments in the national office and the national board counterparts are working closely together to understand interrelationships and avoid possible conflicts. I hope that these responses are helpful, and I'm glad that you used the Annual Report to communicate to us your questions.

We wish you success in all that you do during this League year!

Sincerely,

Lee Carpenter

Lee Carpenter
Land Use Chair

Enclosures

cc: Helene Borg, President, LWV of Minnesota
Mary Poppleton, Natural Resources Chair, LWV of Minnesota

ARMS SALES: Is Europe Cashing in on U.S. Restraint? from Interdependent

Minnesota State

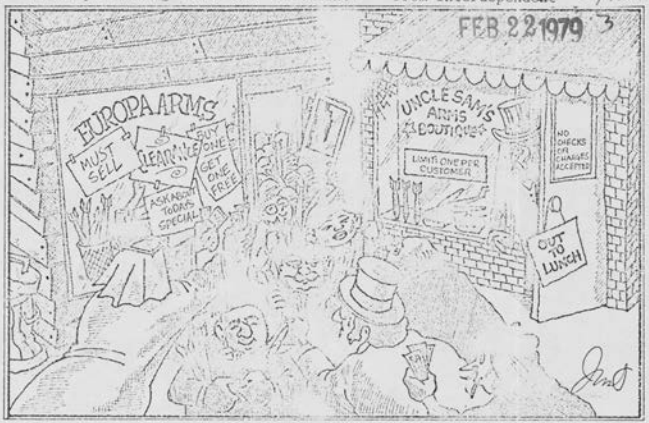
Is the US being played for a sucker in the global arms trade? Arms manufacturers in this country have long argued that the kind of arms sales curbs announced by President Carter in 1977 simply open up new markets for European exporters literally foaming at the mouth to grab a bigger share of the world arms trade.

The President conjured up this image himself November 29, when he linked further reductions in US arms sales to similar restraint by other major suppliers.

"My decision on American arms transfer levels for fiscal year 1980," he said, "will depend on the degree of cooperation we receive in the coming year from other nations, particularly in the area of specific achievements and evidence of concrete progress on arms transfer restraint." In December, the US and the Soviet Union wound up their fourth round of talks on cutting arms sales, but Washington's efforts to negotiate comparable agreements with the United Kingdom, France and West Germany, its closest allies, have not yet gotten off the ground.

Still, the latest Government figures make it hard to argue that most of the US' main arms trade competitors are falling all over themselves to pick up whatever slack the Administration's policy has created.

In fact, asked how the Administration could justify conditioning US cuts on the performance of much smaller European exporters, Under Secretary of State for Security Assistance Lucy Wilson Benson said, "We're not saying our allies need to match our reductions. But we need to talk about it." She added that President Carter did not say that US restraints would stop in the absence of European cooperation.



The US is far and away the world's leading arms salesman. In fiscal 1978, which ended last September 30, the US concluded arms deals worth $13.5 billion, and a ceiling of $8.6 billion was placed on sales to all nations except Japan, Australia, New Zealand and the members of NATO. A ceiling of $8.43 billion is planned for fiscal 1979, Carter announced November 30, with total sales again expected to surpass $13 billion.

The US Government classifies its information on new orders received by foreign exporters, but one State Department official said that of the three main Western European salesmen, only France has dramatically increased its sales since 1973. Neither Britain nor West Germany showed a significant upward or downward trend. Last March, France's arms industry reported receiving a record $5.4 billion in new commitments, which would make that country the world's third largest arms merchant, just behind the Soviet Union.

Figures for another category, annual deliveries, show the size of the gap between the US and its three Western European competitors. In current dollars (constant dollars) [illegible] exports increased from just over $5 billion in 1973 to slightly more than $5.2 billion in 1976, according to the US Arms Control and Disarmament Agency (ACDA).

In the same three years, French exports actually dipped from $863 million to $840 million, British exports increased from $583 million to $638 million and West German exports rose significantly from $139 million to $656 million.

Some observers claim that getting the British, French and West Germans to reduce their arms sales will be extremely difficult because military exports are critical to these countries' trade balances. But the ACDA figures show that arms accounted for only 1 percent in 1976. By contrast, arms made up 5 percent of US exports and 10 percent of Soviet exports that year.

Yet these statistics can be misleading. According to a study done by ACDA conventional arms specialist Anne H. Cahn before she entered Government service, France and Britain claim that their aerospace industries must export half their production in order to survive. For the US, the figure is 30 percent. Moreover, the French and British shipbuilding industries have both greatly increased their dependence on military exports, with France's rising from 3 to 14 percent between 1970 and 1974 and Britain's soaring from 10 to 38 percent in that period.

West Germany is the only major exporter besides the US with important restrictions on its military sales. Conscious of Germany's militaristic history, the Bonn Government has sought since 1971 to limit military exports to the NATO countries and avoid areas of tension such as the Mideast.

But in recent years, West German arms manufacturers have been pressuring their Government to relax these rules, especially since late 1975 and early 1976, when the West German Cabinet turned down lucrative tank and armored personnel carrier deals with Iran and Saudi Arabia.

Since then, West Germany has eased its policy somewhat, permitting submarine sales to Indonesia and Argentina in 1977.