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TOWARD A LAND ETHIC FOR ALASKA

By Joseph R. Blum, Chief, Habitat Development and Ronald J. Somerville, Regional Game Supervisor. Alaska Department of Fish and Game.

Alaska is unique. Its geographic location, size (586,500 square miles), physical features, wildlife and other renewable resources, scenery, weather, people and nonrenewable resource potentials can be considered unusually attractive from various standpoints. However, a microscopic examination of past and present land and other resource use practices reveals an alarmingly similar pattern of haphazard development illustrated by our sister states. There is really nothing unique about water and air pollution, expensive land rehabilitation, the unnecessary degradation of salmon spawning areas, the carving of an ice road from poorly understood ecosystems, unplanned economic development, a complete lack of statewide land planning and, thus, a passive disregard for environmental qualities.

In many fields of resource management, both the state and federal governments have made admirable attempts to avert some mistakes made previously by updating statutes, regulations and policies. The complexities of bureaucracy and irregularities in legal land management authorities have led to an incoherent and divergent system of land planning at all levels of government.

By examining the land use problems facing the state, the land ownership patterns, and the present attitudes (both political and social) toward development and land planning, one easily realizes that drastic changes are necessary.

Providing a land ethic and subsequent land use policies are key responsibilities facing both the citizens and the governmental institutions of Alaska. Any ethic or land use policy must recognize our obligation to use the land and its resources in such a manner that any single use does not have any irreversible impact on any other uses or resources. The key words here are obligation and irreversible. This land ethic must reflect our moral obligation to voluntarily apply land quality standards for planning, zoning and use consistent with the total environmental needs of the human race and our society.

In the following pages, we will describe the land use situations in Alaska and our Department's present involvement. We will also include our conclusions concerning a land ethic and land use policies.

DISCUSSION

Land Ownership

In any analysis of Alaska's land problems you are immediately struck by the complexity of land ownership and, consequently, the overlapping regulations governing the various land uses. A brief review of this stewardship (Table 1) will verify the point.

Table 1. Present and Anticipated Ownership of Alaskan Lands.

Agency or Steward	Present Acreage	Proposed or Anticipated Acreage
U. S. Forest Service	20.7 million acres	18.3 million acres after state selection and Native claims
Department of Defense	24.8 million acres	Unpredictable
Fish and Wildlife Service	20.1 million acres	Unpredictable
National Park Service	7.5 million acres	12 to 15 million acres
Power Site Withdrawals	15.6 million acres	Variable
Bureau of Indian Affairs	4.1 million acres	Unpredictable
Bureau of Land Management	244 million acres	250 million acres
State of Alaska	8.1 million acres	103 million acres
Alaska Boroughs	10 percent of state selected land within their boundaries	
Private Lands	18.3 million acres	Unpredictable
Miscellaneous	1 million acres	

It is obvious from looking at the table that we are already faced with a hodgepodge of ownership which compounds the problem of developing a land ethic and subsequent statewide land and resource plans, although the major holdings are and will remain under Federal jurisdiction.

Some will maintain that the state is large, and thus, it requires a complex segregation of ownership primarily to protect specific land types and uses. However, we feel the quality of the "Land Ethic" will be inversely proportional to the number of major public land owners and the total percentage of speculative land available to the general public.

Land Quality

One must apply a different set of values and establish refreshingly new criteria for judging the quality of land in Alaska. Quality can no longer be measured only in terms of yearly monetary returns per acre of some saleable commodity or dollar values for realty speculation or enterprising purposes. However, if these were the only values involved, one could state that less than half of Alaska's 365 million acres could be considered acceptably productive and valuable.

As in other places, the most productive land and thus the most desirable land is limited in quantity and location. For this reason, we already see and can expect increasing land use conflicts. Community expansion, agricultural use and recreation development will, out of necessity, attempt to utilize and transform these same high quality lands. The short term individual benefits from this development may be rewarding but the long term effects may be undesirable.

Some of the more pleasing natural features of Alaska are located on or near these highly productive lands. In many instances, our richly endowed supply of fish and wildlife are directly dependent upon these lands. In our opinion, one could strategically select less than half of the state and effectively control all of the presently valuable land (excluding sub-surface resources) and hold the future of 90% of the fish and wildlife resource in his hands, particularly if the problems of access are considered.

The remainder of Alaska much of which consists of tundra, alpine and glaciated areas, is valuable for its aesthetic qualities although less productive in terms of dollars generated. These qualities should be considered in judging land values for social needs. However, we would hate to see the only representative remaining undeveloped portions of Alaska restricted to land above a certain altitude and portions of the less productive tundra.

Land Laws

The complexity of land ownership in Alaska has led to a complexity of regulations. Regulations, of course, are based on statutes law administrative policies of the agencies involved.

The Congress of the United States, recognizing the need for review of federal land laws, established in 1964 the Public Land Law Review Commission. The Commission's reports which were presented to Congress of June 30, 1970, consisted of 34 commodity studies including one devoted to all land laws of the State of Alaska. The key issues before the Commission have been the degree and type of control to be exercised by the Federal Government to insure that all uses of the land have negligible detrimental impact on the environment and that when these uses cease the land is restored to its original condition, if possible. Two of the key uses of public lands considered were mining and settlement.

There is little question in our minds that the Mining Law of 1872 and the Homestead Act of 1862 have done more to deteriorate land quality in Alaska than any other land laws on the books. Both laws were designed to encourage settlement and development. They give the administrators of public lands very little control over individual entrymen.

The specific problems under the Mining Law in Alaska are: (1) misuse of the law to acquire land for recreational residences - it is often the case that cabins and other improvements on a claim are devoted to recreational uses and little if any actual mining operations are conducted; (2) actual damage to the public lands resulting from legitimate mining operations due in part to the lack of environmental considerations with the law - the Mining Law as currently written, requires no consideration of other values during the exploring and development phase and there is no restoration of land required when mining ceases; and, (3) loss of public access - most of the entry to mining areas has been along old trails originally established in the late 1800's during the gold rush days. Entrymen filing along these trails block public access.

The Homestead Act has also imposed similar problems to public use of Alaska's lands. Some of these problems are: (1) speculative entry on land not suited for agricultural purposes - the very liberal requirements for proving up and gaining patent to a homestead have made it relatively easy for people to acquire 160 acres of nonagricultural lands for nonagricultural purposes, thereby removing them from public use; (2) antiquated methods of acquiring patents - as mentioned above, the methods of acquiring patent under the Homestead Act are extremely liberal and there is perhaps no way in which an entryman can be refused a patent once he has applied; (3) blockage of public access - as is true in the case of the Mining Law of 1872, entry to homesteaded land has been gained generally across public trails. According to law, once entry is made the land has been appropriated and public use precluded. To reopen these once public trails requires long and extensive court action; and, (4) lack of control over entry - The Homestead Act does not require that public lands be classified agricultural prior to entry for homesteading. The choice of where to enter is left up to the entryman.

Homestead Act conflicts were partially resolved in the western states with the enactment of the Taylor Grazing Act in 1934. Basically this Act calls for public land classification before use. The Taylor Grazing Act does not apply to Alaska, consequently, on the 244 million acres administered by the Bureau of Land Management there is little or no control over users.

In 1964 the Classification and Multiple Use Act was passed. Through this Act, the Bureau of Land Management acquired its first management authority over public lands in Alaska. To date some 30 million acres of public land have been classified for retention by the Federal Government and Management for multiple use purposes. Further classifications under this Act have been stopped by the land freeze which was imposed upon all unappropriated lands in Alaska in order to protect native rights while Congress attempted to settle their claims.

The Department of Fish and Game has initiated programs with BLM through which we review and comment on all proposed actions on BLM classified lands. Our cooperative agreement with the Bureau of Land Management calls for the Department of Fish and Game to identify those areas within the BLM classification units that are important to fish and wildlife. Secondly, the Department of Fish and Game and the Bureau of Land Management work jointly over a specified period of time gathering the data necessary to draft a land use plan. On those areas that are essential to the fish and game resources, a supplemental cooperative agreement is entered into in which the Department of Fish and Game assumes some land management responsibility over these lands.

The state land laws, which have been developed to manage and administer the 20 million acres of state land selected to date, are generally much stronger than their federal counterparts. Their effectiveness is hampered by a lack of enforcement due to a shortage of personnel and necessary funds.

Prior to entry upon State lands, for any purposes, if you are using certain types of equipment or explosives, you must apply for a permit from the State Division of Lands. Upon application a performance bond is required guaranteeing that your performance on these lands will meet certain standards and will not cause detrimental impacts on other resource users. State law also requires that all state lands must be classified prior to disposal. Homesteading takes place on state land only after: (1) the land has been classified agricultural; (2) an appraisal has been made; and, (3) the land purchased at auction. Only recently has the public been able to enter state lands and simply stake out a site. Even this requires classification of the lands as Open to Entry prior to settlement.

The single most important step taken toward sound land use in the State of Alaska was taken by the constructors of the State Constitution when the land managing authority was centered in a single agency - The Department of Natural Resources, Division of Lands.

The Alaska Department of Fish and Game through a program of cooperative agreements has been working with the Department of Natural Resources to assure closer coordination between land use practices and fish and wildlife management. In the field of oil development we have a cooperative agreement through which the two agencies work jointly with industry in the selection of areas to be leased for oil and gas development. We have developed a set of stipulations that accompany all lease bidding forms so that industry has full knowledge of the requirements they are going to have to meet to minimize impact on fish and game before they can develop the oil and gas resource. This particular cooperative agreement became effective in March 1968.

On State lands managed for their timber resource, we have a cooperative agreement which calls for the Division of Lands to route all timber sales through the Department of Fish and Game to assure that anadromous fish streams or other resources are protected during logging operations. In the Open To Entry program (land settlement by entry) the two agencies have worked closely to delineate areas of conflict and these have either been eliminated from the program or modified to protect other users.

We are currently working with the Department of Natural Resources in delineating critical fish and wildlife habitat for classification and to permit the Department of Fish and Game to actually participate in land management.

Withdrawal and Preservation

As has been pointed out before, the general federal land laws governing the activities of entrymen on most public lands are quite inadequate. The governmental institutions have attempted to substitute a program of withdrawal and preservation for a land ethic and land use policy. For instance there are forest withdrawals, power withdrawals, military withdrawals, petroleum withdrawals, Indian reservation withdrawals, archeological withdrawals, right-of-way withdrawals, and others of a miscellaneous nature. All of these have been established for specific purposes and each may have their own specific land use regulations. They do involve a tremendous amount of land and often have overlapping jurisdictions for state and federal resource management agencies.

In many cases, the segregation of lands for specific purposes has precluded other uses, which places an unnecessarily heavier burden on the remaining productive lands. Since they have generally been withdrawn without the consultation and planning of the state agencies they have generally been more consistent with the national interest.

We think this a very incidious approach to planning. Generally withdrawals are: (1) poorly planned and poorly coordinated with other uses; (2) for a single purpose and little attempt is made to maximize compatible uses; (3) subject to the Mining Law of 1872, unless specifically excluded; (4) are proposed only to stop development regardless of other social or economic values; and, (5) most importantly outside these withdrawals, lands are left open for a multitude of abuse which, ironically, could have a deleterious impact on the withdrawals themselves. It is our feeling that withdrawal is no substitute for planning.

Development

As Aldo Leopold wisely pointed out in Sand County Almanac, "Economic feasibility limits the tether of what can or cannot be done for land. It always has and it always will."

This implies that economic development policies will have a great deal to do with the initiation and effectiveness of a land ethic. Our land base and the associated natural resources are the cornerstones of economic development within Alaska. As Cooley has stated, our economic future depends to a great extent on "the expansion of the forest product industries and the exploration and production of oil and gas."

Most economists seem to agree that the State of Alaska must establish a broad and stable economic base. There does not seem to be, however, an unanimity of opinion as to how this can best be accomplished.

We find ourselves caught in the middle between those who wish to develop or preserve Alaska's natural resources. It is probably realistic to assume that development will occur as some form of resource exploitation will be necessary to establish an economic base. The question is, can development be controlled and directed? We feel that unless a statewide land use plan is developed, the emphasis will continue to be on short- range monetary gain rather than long-term benefits to a stable economy and the qualities of living. Without some environmental plan the preservationist and developer will be continuously pitted against each other resulting in statewide environmental degradation. At this point in time, we are headed in this direction.

If we are to develop a "land ethic," then we must establish a distinctly different approach toward land use policies and planning. We must establish basic environmental objectives and rules of conduct which will assist us in obtaining these objectives. To think that our society will be willing at some later date to apply retroactive environmental standards is being somewhat naive. Retroactive controls take place at such a time that basic productivity of the land in question has already been substantially reduced. Raymond F. Dasmann dramatically emphasizes this point in The Destruction of California.

We must decide on our development objectives and ultimate goals. If our goals are simply to pit man against his environment or to transform the wilderness into another giant metropolis, then we are being negligent.

One of the major arguments against stringent development control is the consideration of economics and cost to the company or consumer. For this reason the State of Alaska, as have other states, has encouraged tax exemptions or other incentives. There are some extreme inconsistencies in this approach. For one, the Alaska taxpayers may question the cost benefit ratio. Do taxes go down or does the expanding economy attract more people which require more services, which we are always behind in providing. Isn't the taxpayer subsidizing development even though he may or may not be the consumer or derive any direct benefits? We feel that the real consumer should pay the cost.

There is little doubt that by requiring all development to abide by minimum standards and setting these standards at such a level that we will immediately discourage cost prohibitive development. Possibly in the long run, greater economic stability would occur because of this.

Because of the tremendous amount of Federal land in Alaska, the State's need for a sound economic base, the limited productive land available on which to establish an economic base, the stress for specific withdrawals in the national interest, and the present tendency to withdraw land for specific uses, it seems appropriate to consider a mutually beneficial approach to the associated problems.

For those federal withdrawals which remove land from state selection or potential direct contribution to the economic base and are justified as being in the national interest, then we suggest that the Federal government pay an equitable prorated sum "in lieu of taxes". This system would guarantee that the State would not have to solely carry the burden of subsidizing all programs within her boundaries which are classed as "being in the national interest". The national "benefactors, consumers, or users" would pay the cost and not just Alaskans.

Without the above, or a similar system, we can expect continued pressures to mount at both the state and federal level to place a greater economic production burden on the remaining or unclassified land. This can only produce eventual land chaos, destruction and competition for development and preservation. No system of coordinated land planning can ever be implemented and maintained.

Public Attitude

Another element in land use development is the attitudes of the public. Raymond Dasmann in Future Environments of North America, states boldly what the problem regarding man is, "...a dichotomy in our attitudes toward the land. One based on the principles of a social conscience which at times, and most recently, has been evolving toward an ecological conscience. And the other, the individual's search for material gain, for a place in the sun, for the good life in a material sense....you have conflicting attitudes within each individual. He must earn a living and, at the same time, he has a feeling of social responsibility toward his fellow beings and toward the land he occupies."

Later Dasmann says that much of our failure to use the land wisely stems from our lack of "peasant tradition" and the development of "transient exploitation" (i.e., making a living off a chunk of land without intending to settle or stay). Alaska suffers from this type of exploitation in all areas of resource development (i.e., Seattle based fisheries, Tokyo based lumber and lower 48 based oil). Our concept of land use to date has been premised on the very strong desire to modify the land rather than to fit ourselves into the environmental scheme.

The public and politics in Alaska are as susceptible to being wooed by rapid development and associated benefits as citizens of any other state. It is alarming to witness the rebuilding of an unsatisfactory environment which many came to Alaska to avoid.

Multiple and Compatible Use

The term "Multiple Use" has in various forms been used by resource managing agencies to placate the American public. Although appealing philosophically, practically it is almost an impossibility. No single tract of land can be managed for all uses simultaneously. The concept is, however, an admirable attempt by resource managers to recognize that there are many demands on our fixed land base.

The U. S. Forest Service has probably made the greatest effort to apply the concept of "Multiple Use" over very large national forest areas. The application of this theory does vary considerably from district to district even though the multiple use demands appear to be less variable. Where one district may recognize and exclude waterfowl nesting and resting tidal areas from logging activities, others may not even include these areas in their multiple use plans or resource inventories.

Multiple use as a concept is beneficial. However, in day to day applications, are we not really working with a system of "compatible use?" As we understand "multiple use" you attempt to obtain the maximum number of uses on a given area without assigning any priority or key use–multiple use is the key. This is all well and good until you reach mutually exclusive uses such as recreation and clear-cutting. We feel it is essential to classify land for its highest use and thus, permit compatible uses by some system of priorities and progressive techniques of zoning.

All other uses should be considered secondary uses and may even be listed in their order of priority. By this system, all secondary uses may be permitted if compatible with the primary use. An example of this system is found in many southwestern states' water preference rights regulations.

What appears to be a simple system of classification and control is really a complex system of priority judgments. A substantial amount of data input is required continually to make this dynamic system workable.

Compatible-use zoning is not new by any means but its application on a statewide basis would be considered progressive by any modern standards. Other states have further modified the principle by integrating time and sub-area zoning. This would be especially applicable to Alaska at even this time because of the distinct seasonal differences in use.

Large areas classified for wilderness could, for instance, be seasonally subdivided to allow for other recreational pursuits and compatible resource management. The primary purpose would be to allow for a maximum wilderness experience during the period of the year when this use was most prevalent. It is understood that the other uses that would be permitted during the "off" wilderness season would leave the land in such a fashion that its wilderness values had not been reduced.

The most pressing problem will be initiating such a program on a statewide basis. It must apply to all lands. A review of proposed segregations, development and withdrawal classifications may show many surprising duplications and similarities under different titles.

Bureaucracy

Cooley wrote: "Finally, there is what may be termed the administrative dilemma. In the growth of the American political system separate agencies have been established to handle public responsibilities for a particular portion of the natural environment--either a given land area or a specific natural resource. Each has become highly professionalized with respect to its particular function, and each has become surrounded by specialized pressure groups attempting to influence public policies to service their particular needs and values; but no one in public life is charged with concern for the total environment as such. Each separate agency may be doing its job well, with coordination among the agencies at a high level. Yet each may be contributing unknowingly, unavoidable or unconcernedly to overall environmental deterioration."

Thus, complexities of government often tend to establish uncompromising resource management positions. This is particularly true of our land and written history clearly documents that divergent land management approach was taken by the various bureaucracies. Those of us who ary obligated to the somewhat prejudicial positions of managing certain segments of Alaska's renewable resources must realize that our efforts are futal unless land and habitat uses are coordinated. Practicality dictates that this cannot be accomplished if separate land owning agencies approach the subject of land and resource management from entirely different positions.

We see that there are really only two alternatives: (1) each agency can attempt to manage the land under its own set of rules or policies; and, (2) all agencies will attempt to coordinate their management under a unified system designed to provide the most beneficial use of the land. We prefer the latter, even though it is admittably more difficult.

We feel that the development of a land ethic and policy will necessitate a realignment of governmental institutions. In order to provide the continuity needed, we feel that land management authority must be centered in a single agency at each level of government. An important step, as was mentioned earlier, has been taken by the State in centering this land management authority in a single agency.

Coordinating the planning and implementation activities of each level of government will be difficult at best. This might possibly be accomplished by a separate coordinating and planning committee comprised of state and federal personnel which is directly responsible to the Governor and Secretary of the Interior. This suggestion might prove unworkable but at least the liaison committee could establish a uniform land ethic and planning approach.

Statewide Land Planning

Are not land quality control standards similar to the present water and air quality control standards necessary for land in Alaska? It is our position that the existing state land regulations with their far reaching implications should be adopted as these minimum standards. Enforcement of the established regulations is and always will be a problem. Strict adherence to minimum standards must be enforced and few, if any, exceptions made.

Minimum standards must be established outside of which no land manager be private, city, borough, state or federal could deviate. We are working under a similar system with water and air quality standards in which restrictions of federal funding are used as insurance that standards will be met. The leverage on land quality which would insure adherence to such standards would also be funding, either direct or through developmental programs. Senate Bill 3354, the National Land Use Policy Act of 1970 introduced by Senator Jackson in late January, is an example of the type of approach we support.

To implement land planning on a statewide basis, there must be created a committee made up of the chief planners from the state and federal land managing agencies. This committee should be chaired by the Governor's appointee who is mutually acceptable to the federal interests. This committee should have the authority to classify all land in the state. These classifications would be binding over all land ownership under all jurisdictions, much as zoning is today. The classifications should be broad and flexible.

Samuel Ordway has discussed in Future Environments of North America, such a planning system developed by the State of Hawaii, (Hawaii uses four classifications: agriculture, conservation, urban and rural). The land use regulations are binding on their four counties. Commenting on this pioneering extension of state authority over local land use and its impact on individual property owners, Ira Hyman in Future Environments of North America, stated, "Local governments have been deprived of the power to permit uncontrolled urbanization or to select areas other than those designated by the state agency for such development. This is a substantial inroad on conventionally conceived powers of local government, but in an age of population increases and demonstrated interdependence of the population centers, it is difficult to say that the inroad is unjustified."

Alaska's needs can best be met with the following classifications (remember these classifications represent priority use within which compatible uses could be undertaken): urban, rural, conservation, and development. We must remember always, that the guiding light of this system is a land ethic which recognizes our obligation to use land in such a manner that no single use or group of uses inflict irreversible harm to the land.

CONCLUSION

Our development of a land planning policy calls for the reduction of public stewardship to one agency for each level of government and in the formation of land quality standards. The implementation of planning is through a statewide land use classification system recognizing priority and compatible uses which are determined by a land planning committee. The classifications should be broad and flexible but binding on all lands under all ownership.

Let us follow in the philosophical footsteps of Great Britain where land use is publicly controlled in the interests of the community. But let us not wait as they did, until more of a crisis is at hand. Let's do it now.

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