

TEXAS LAND USE

Summary Report



Charles Schan

TEXAS LAND USE
Survey Report

THE INTERAGENCY COUNCIL ON NATURAL RESOURCES
AND THE ENVIRONMENT

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TEXAS LAND USE

A Land Resource Management Study Summary Report

Conducted
For

Office of the Governor
The Division of Planning Coordination

In Cooperation With
The
Interagency Council on
Natural Resources and the Environment

By:
Research and Planning Consultants
Austin, Texas



December 1973



OFFICE OF THE GOVERNOR
STATE CAPITOL
AUSTIN, TEXAS 78711

Dear Fellow Citizen:


By this letter I am transmitting the Summary Report of a study entitled TEXAS LAND USE. The study was commissioned in 1972 to provide a starting point for discussion of problems of land use in Texas. The report is not intended to be a statement of policy, nor are any proposals contained in the study intended to reflect advocacy of any specific solutions to problems associated with land use. This report summarizes the results of eight technical studies which detail separate areas of concern.

Land use and land resource planning and management are currently topics of high interest and significance at both national and state levels. Presently pending before the United States Congress are proposals for national land use legislation which would greatly increase the responsibilities of the States in the areas of formulating land use policy, plans and programs.

The results of this study have been submitted in preliminary form to many agencies and organizations for their review. It is important now that we seek a broader response and understanding of this issue and its implications for our State. Therefore, all interested agencies, groups and individual citizens are encouraged to review this document and make their views known concerning the issues raised. Hopefully, such a discussion will lead us to the kind of decisions regarding land use that will accurately reflect the desires and needs of all our citizens now and for future generations.

I will appreciate your response to this study.

Sincerely,


DOLPH BRISCOE
Governor of Texas

ACKNOWLEDGEMENTS

The interests and views of a broad cross-section of public and private groups, organizations, agencies and individuals were sought and considered in the preparation of this study.

Throughout the conduct of the investigation, the Land Resource Management Advisory Committee of the Interagency Council on Natural Resources and the Environment served as a resource and review body. Each member of that Committee and each agency represented gave freely of their time and their objective thoughts.

Those State agencies with specific statutory or constitutional responsibility for natural resource planning, development, protection or management were individually contacted to contribute information during the development stages of the study. Their cooperation and assistance was invaluable to the completion of this effort. Many other organizations throughout the State were consulted: colleges and universities, private interest groups, representatives of local and regional governments, and individuals. Most of their suggestions and views have been incorporated into the separate technical studies and are reflected in this summary. None of these groups were asked to endorse the overall study or any of the findings or proposals presented therein.

The final drafts of the published technical reports, their individual summaries, and this summary of the entire study represents the combined views and findings of the consultant firm, Research and Planning Consultants of Austin; the principle investigators of each of the technical studies; and the project group within the Governor's Division of Planning Coordination.

As indicated in the letter of transmittal, these reports and summaries do not represent any consensus opinion on policy direction nor specific solutions or recommended approaches for governmental actions in resource planning and management for Texas. On the contrary, they reflect sometimes divergent views and priorities.

Texas Land Use

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INTRODUCTION

During the late 1960's and early 1970's, a variety of new private and public efforts in resource management and environmental protection were initiated. Examples are the adoption of new federal legislation for a national environmental policy, water pollution controls and clean air programs, rural development, coastal zone management, and many others. Today federal legislation is pending on the significant issues of power plant siting, protection of mined areas, flood plain management, superport development, and a National Land Use Policy and Planning Assistance Act.

Paralleling the nationwide initiatives was a growing realization of the ever-increasing pressures and demands upon our natural resources in Texas—our land, water, wildlife, vegetation, minerals, energy reserves and related resources. Many concerned agencies, organizations and individuals concluded that a comprehensive approach to resource planning, development and protection is vital to the future well-being of this State and all its citizens.

Several related events and situations in the State are indicative of the changing point of view towards resource matters:

- * Increasing recognition of major problems emerging from the rapid rate of growth and development in the Texas coastal zone, around the States metropolitan growth centers, and around most inland lakes.
- * Escalating urban and rural problems due partly to a growing imbalance in population distribution, with obvious stagnation and decline in many rural areas and smaller cities, accompanied by an extreme degree of concentration in only a few major urban areas.
- * The Texas Legislature, providing enabling legislation for a comprehensive Texas Coastal Resource Management Program, and thus recognizing the special problems of this region and indicating that this should be a model, or prototype study for application later to a statewide resource planning and management program.
- * Establishment of a blue-ribbon Texas Urban Development Commission charged with recommending new State policies, programs and legislation for guiding urban growth. (One specific result was a recommended approach to an intergovernmental system of land use planning and management for Texas.)
- * Organization of a state-wide Rural Development Commission to address the special problems of rural Texas.
- * A convening of a special Texas Conference on Land Use Planning and Management sponsored by the Governor's Office in cooperation with the Council of State Governments/Council of State Planning Agencies.
- * Establishment of a Land Resource Management Advisory Committee by the State's Interagency Council on Natural Resources and the Environment to examine the problems, needs and alternatives for State action. (This was perhaps the most direct stimulus for the Texas Land Use Study, as it was designed primarily to address the

kinds of questions and to provide background information needed by the Committee.)

- * A specific program element was being written into the 1972 State Planning Assistance Program, as part of the State's "701" planning grant from the U.S. Department of Housing and Urban Development, for a statewide study on land use issues, problems and needs for the State of Texas.

A comprehensive study of land use planning and management for Texas was commissioned in 1972 and completed in 1973. The study resulted in the preparation of eight technical reports, which are summarized below.

These summaries provide the interested citizen with an overview of land resource management.

- * Historical Perspectives - A review of earlier trends, developments and evolutionary processes for land management in Texas, with emphasis on those historical events and characteristics which most influenced social and economic development of the State.
- * Existing Mechanisms - A survey of existing legal basis and use of institutional mechanisms by respective levels of governmental entities in Texas in resource planning and management.
- * Problems and Issues - An interpretation and identification of more significant problems confronting Texas in resource planning and management, with discussion of issues to be addressed in seeking solutions to problems.
- * Significant Policies - An identification and analysis of existing public and private policies which influence the use, development and protection of our land resources in Texas.
- * Needs For The Future - An evaluation of priorities and relative needs for improved mechanisms, institutions, policies, and approaches to land resource planning and management for Texas.
- * Management Approaches - A consideration and evaluation of alternative management approaches to improve land resource planning and management for Texas.
- * Role of Planning - A discussion of needs, objectives, methods and respective roles of governments in planning for a more effective land resource management capability in Texas.
- * An Informed Public - A strategy for informing the public—decision makers, interest groups, private citizens, and others—in order that they can make the best possible decisions on resource planning and management issues.

The report is intended to provide a baseline of understanding for all interested elements of our society and a starting point from which informed decisions about the wise use of our renewable and non-renewable resources can be made in the future.

In the past, the progression of federal, state, and local initiatives relating to land use has been followed closely by many groups, organizations, governmental agencies and private individuals. These people have reached varying conclusions. While many viewpoints have been presented in TEXAS LAND USE, obviously all of them may not have been treated in a comprehensive manner. Many individuals who helped to review draft versions of the report felt that some positions have been overemphasized, others underemphasized, and they have raised basic questions such as the following:

- (1) that a single monolithic state agency might be created which would preempt local action and initiative
- (2) that an increased State role in land use planning might lead to "compulsory land use planning" which would not be responsible to or in tune with the wishes of the people
- (3) that the principle of private property rights might be abrogated
- (4) that government planners have a "bad track record" as compared to private property owners in making the best use of financial and land resources in our competitive enterprise system
- (5) that zoning as a widespread land use control mechanism is not desirable
- (6) that Texas should not necessarily adopt land use planning just because the federal government may make planning funds available to states

What is important is that there must be a continuing forum and ongoing dialogue among all elements of society.

Whatever new governmental actions or programs might evolve for land resource management in Texas must include adequate safeguards and guarantees for the protection of individual rights and freedoms. For this to be accomplished, a high degree of public participation is imperative. Local self determination and a strengthened role for local government are essential characteristics of any new programs.

Historical Perspective

The term "land resource management" is increasingly broad. To refer to "land resource" encompasses all of the varied capacities of land to serve numerous and essential human needs. To speak of "management" is to point to all human efforts, private and public, to utilize these capacities.

It is evident that land resource management has existed in some form since the dawn of human life. It is also evident that the meaning of the term has undergone drastic changes over the years. Science has enhanced, and continues to enhance, understanding of the nature of the land resource. Technology has advanced, and continues to unlock, treasures of the land resource. The nature and magnitude of human demands upon the land resource have changed, and continue to change.

Despite the advances of science and technology, there is increasing public concern about the capacity of the finite land resource to satisfy burgeoning human demands. There is also increasing public concern about the adequacy of traditional management methods to deal with the land resource problems of today and tomorrow.

Since land resource management is a continuing and everchanging phenomenon with a long history, and hopefully a long future, it should be helpful in shaping policy and methods to gain an understanding of that history. This report is an attempt to promote such an understanding.

It will suffice to select as a starting point the year 1836, when the Republic of Texas was born. Attention will be called to selected events indicative of significant trends in the succeeding years. Following the chronological survey, the principal methods and processes of land resource management that have been employed in Texas, together with the roles of levels of government, will be identified and described briefly.

A Chronological Overview 1836 to Reconstruction: Years of Abundant Land

When the Republic of Texas came into existence in 1836, the land resource of Texas had hardly been touched by man. Less than 10,000 people resided here and most of these

were clustered in a few settlements near the upper Gulf of Mexico coast.

Nearly all land was owned by the Republic. When Texas was annexed to the United States in 1845, Texas retained its public lands. The dominant land policies of this era were disposition of the public domain, primarily to settlers, and encouragement of private development of navigation, roads, and other internal improvements. In the main, public land was viewed, not as a resource to be developed or applied to desired ends by



government, but as wealth — a substitute for money — to be bartered for things and services. Title to most land was to be transferred as quickly as possible to private owners, who would make the decisions as to how it should be managed.

Towns began to be established, especially along rivers, which constituted the major transportation routes. Many of the towns were developed by private entrepreneurs, aided by government land grants and by legislative charters. Rudimentary powers of land resource management, including powers over streets and nuisances, were conferred by these charters. Siting of the capitol at Austin was a significant land management decision of this period. Outside the towns, the driving of cattle to distant markets soon became a major endeavor. J. Frank Dobie relates that at "the very hour of the battle of San Jacinto, . . . a herd of cattle was being trailed to New Orleans."

The Latter Nineteenth Century: Changing Uses of Land

By the end of the Civil War, a thriving cattle business had developed on public land in West Texas, based upon free grass, branding irons and the Chisolm Trail. But this situation was threatened by the westward push of settlers, spurred by the homestead laws. Open-range practices of cattlemen and the desires of settlers to manage their farms were irreconcilably in conflict with each other. The settlers won the struggle, with crucial assists from technology and state law. The technological contribution was the invention of barbed wire, which made pastures and controlled cattle breeding possible. The legal contribution was legislation making fence-cutting a felony — a law which was vigorously enforced by the Texas Rangers.

Resistance by cattlemen was not the sole obstacle to settlement and development of land in West Texas. Nature's apparent stinginess with water in this region seemed to pose a far less tractable problem. To some extent this problem was solved by another technological advance — the introduction and widespread use of the windmill on the plains. Another response of great significance was the introduction by the Texas Legislature of the prior appropriation system of water rights in 1889, supplementing the riparian rights system, and thereby making irrigation legally possible on a large scale.

The use by the state and by local governments of incentives to private entrepreneurs to build railroads and other internal improvements was virtually halted by the Constitution of 1876, many provisions of which reflect an attitude that such practices had often been extravagant, unwise and corrupt. Severe

restrictions were also imposed upon the capacity of the state and local governments to incur debt and levy taxes for public works.



Although conditions and problems of localities and regions continued to be ~~many~~ in many important respects during this period, the Constitution of 1876 prohibited the legislature from enacting any "local or special law" concerning a long list of subjects, including several related to land resource management and local governments.

The Opening Years of the Twentieth Century: Oil Leads the Way

Soon after oil gushed from the famous well at Spindletop in 1901, petroleum became a dominant, if not the dominant, factor in the economy of Texas. Management of its production was left, during the early years, almost entirely to the private sector. But in 1897 regulatory powers were conferred upon the



Railroad Commission, which during these years since has developed an elaborate and comprehensive program of regulation of production and other aspects of the oil and gas industry.

Other significant state regulatory programs were also inaugurated during this period, including creation of the State Board of Water Engineers, State Highway Department, State Parks Board, Department of Agriculture and the Texas Forest Service.

In 1917, the so-called "Conservation Amendment" was added to the Texas Constitution. It authorized the legislature to create special districts with powers, fiscal and otherwise, to develop water resources unhampered by limits on taxation or indebtedness. It also broadly declared that the "conservation and development of all the natural resources of this state . . . are each and hereby declared public rights and duties . . ." This provision, along with new state regulatory programs, reflected a growing concern by Texans for conservation of natural resources. This concern received a new emphasis in the 1930's, when national and state

programs in soil conservation were begun and national forests were established in Texas.

The strait jacket fashioned for municipalities by the Constitution of 1876 was loosened considerably by the Municipal Home Rule Amendment of 1912, which authorized cities having more than 5,000 inhabitants to adopt or amend their charters, subject to limitations imposed by the legislature.

Mid-Twentieth Century and Beyond: Intensification of Land Uses

Every census since the first one in 1850 has shown a substantial rise in the population of Texas. It stood at over 11 million in 1970, up from 9-1/2 million in 1960. However, the rate of population growth of Texas declined during the past decade. About 85 percent of the total population increase occurred within the four largest metropolitan areas. Non-metropolitan counties either lost population or grew relatively little. These trends have very important implications for land resource





management. Accelerating concentration of population within large metropolitan areas can be expected to exacerbate the task of harmonizing conflicting and potentially conflicting land uses in the areas of concentration. Also, the simultaneous phenomena of urban growth and rural decline raise the question whether government should attempt to slow or reverse this trend.

In another sense, intensification of land uses has been occurring in ranching and farming regions, as practices to improve efficiency have been instituted and widely employed. Especially significant have been the trends of mechanization of harvesting methods, development of hybrid varieties of grain (particularly sorghum), and the feeding of beef cattle at large commercial feed lots. The last of these trends has created environmental problems. Water scarcity continues to be a serious problem in much of Texas. The major irrigated area in the state, the High Plains, is dependent upon an underground source which is rapidly declining. The Texas Water Plan was addressed in large part to this problem, but also represented a comprehensive plan for development of the water resources of the entire state for all beneficial uses.

Burgeoning demands for energy are subjecting oil and gas to increasing pressures. Proportioning of production of oil, once required by production in excess of market demand, has not been imposed for several months, and may never again be imposed.

Cities have responded to growth pressures by resorting to numerous devices, including ordinances prohibiting or regulating particular land uses, master plans for com-



munity development, planning of capital improvements, zoning (but not in Houston), subdivision control, building codes and housing codes. Cities have also participated in a number of programs of the United States Government, including public housing, urban renewal, financial aid to private housing, and attempts to upgrade the quality of many municipal services. Despite this array of weapons brought to bear upon the problems of urban growth and decay, the problems remain intractable. These problems are being attacked not only by government, but also by private developers of largescale projects. Some developers of great financial strength have been able to combine residential, commercial, and other land uses within a single project. Some are sufficiently comprehensive in area

and types of land use as to constitute virtually self-contained neighborhoods or new towns.

Industrial development and transportation continue to have significant impact upon land uses. A state policy to encourage decentralization of the state's economic development has been inaugurated. Land development has been attracted to major highways, especially to interchanges of limited access highways. Increasing legal protection has been provided against adverse impacts of highways and airports upon nearby lands.

Demands for outdoor recreation are growing. State and national parks in Texas are distinctive phenomena of the past fifty years. Unlike Congress in its handling of the federal public domain, the Texas Legislature did not carve out of the public lands of Texas a square

And since there was no federal public land in Texas, there were no national parks or other, until land was purchased for such parks during recent years. The high cost of land acquisition has been the major obstacle to expansion of the state parks system. Efforts to overcome this obstacle in Texas have taken the form of legislative appropriations, federal matching grants-in-aid, and issuance of bonds to be retired from park entrance fees. To qualify for federal grants, the Texas Parks and Wildlife Department completed a State Comprehensive Outdoor Recreation Plan (SCORP) in 1966 and is currently revising it.

When Americans suddenly became concerned during the late 1960's about the condition of their natural environment, their responses included establishment of numerous new governmental programs and refurbishing

of some old ones. Environmental protection is closely related to land resource management. Unless adequate environmental protection is provided, some land uses will be impaired or destroyed. On the other hand, the existence of strict environmental controls may divert environmentally hazardous land uses away from areas with serious environmental problems to other less vulnerable regions.

Methods and Process of Land Resource Management

Private Development

Throughout Texas history, the policy has been followed that land development and management should generally be done by private owners. Government has aided private management in many ways. In some of these, such as the law of private land use control through easements, restrictive covenants and defeasible fees, government is neutral as to the kind of development which occurs. In other programs, government provides incentives to induce desired private action.

Judicial Doctrines

The law of nuisance and similar judicial doctrines are old and still useful methods of resolving some types of conflicts as to land resource management.

Legislative and Administrative Regulation

Private landowners are subject to reasonable and non-discriminatory statutory and administrative regulations by local, state and federal governments. Historically, the great bulk of regulation of land has stemmed from municipal ordinances. Regulation at the state and national levels has been much less extensive.

In 1927, the year following approval of zoning by the United States Supreme Court, the Texas Legislature enacted an enabling act authorizing municipalities to adopt zoning ordinances. Many Texas cities promptly adopted such ordinances, but the largest city in Texas never did. The basic zoning ordinances have undergone major changes since 1927. These changes reflect a widespread view that the early ordinances were too rigid and crude to deal adequately with the complexities and changing conditions of urban land development.

Houston and other cities without zoning have been authorized by the Texas Legislature to enforce certain kinds of private restrictions.

Most Texas cities, including Houston, impose regulations upon developers who subdivide land. Subdivision regulations cover many of the subjects covered by zoning ordinances. A noteworthy trend is the raising of standards as to facilities which must be in-



stalled or paid for by the subdivider.

Building and housing codes have a long history, but many cities adopted them only after this became a condition for obtaining federal funds for public housing, FHA, and urban renewal programs.

Public Ownership of Land and Facilities

Governments generally have a free hand in managing lands they own. External impacts of governmental land uses have sometimes been harmful and sometimes beneficial. Recent laws have been aimed at minimizing adverse environmental impacts and promoting coordination of governmental land uses with uses and plans of others, public and private.

Public ownership may serve as a device for controlling development of private land. A prime example is the urban renewal program, the central feature of which is public acquisition of land by eminent domain or otherwise for sale to private developers subject to deed restrictions which compel adherence to the public plan. General application of this device would encounter the serious constitutional objection that condemnation would not be for a "public use." The same objection would also be raised against some instances of "excess condemnation" and advance acquisition. In some cases, government would prefer to condemn development rights rather than the fee simple. This is generally allowed.

Incentives

Grants of public funds and tax exemptions to private developers by state and local governments are generally forbidden by the Texas Constitution, but there are some important exceptions. Numerous federal land resource management programs depend largely upon financial incentives.

Roles of Levels of Government

All levels of government are involved in land resource management, but the nature and magnitude of their involvement have varied widely. The dominant role during the nineteenth century and until about 1930 was played by the state. Leadership then passed to the municipalities, which began to engage in urban planning, zoning, and subdivision control. Counties have never played a dominant role. Special districts have important influences upon land resource management, but have never engaged in comprehensive programs. Since 1965, regional planning commissions have begun to engage in comprehensive planning. Through expenditure of funds, the Federal Government has exercised increasing control over local and state programs over the past forty years. A major thrust of current federal policy is encouragement of a more active role by the state.

One cannot review the history of land resource management in Texas without being

impressed by the drastic changes which have occurred within less than a century and a half. Of supreme importance is the change from a condition of abundant land to a condition of intensification of land uses and alarming concern about the capacity of land to continue to meet human needs. In response to this trend, management methods and processes also have undergone substantial changes, especially during the past fifty years. A multitude of techniques, public and private, now exist to deal with land resource problems. Yet history is a guide, and it surely is, these techniques will have to be revised and supplemented in order to deal with land problems now evolving.



Existing Mechanisms

What is Land Use Control Law?

Examining existing legal mechanisms affecting the use of lands, the terms "land use control law" and "land resource management" must be defined.

Land use control law refers to governmentally enforced limits upon private landowners' use of their land, such as zoning, subdivision regulations and building codes. It also covers private deed restrictions in modern subdivisions.

Land resource management is a broader concept which refers to all decisions which affect how land as a resource is used. It includes zoning and other land use controls, along with other governmental decisions such as construction of highways and dams, defense spending, pollution and environmental controls, agricultural policies, and all other factors which determine whether cities will spring up, grow, or die, whether farms will hold their workers or lose them to the city, and what the real relationship is from time to time between people and land.

A Necessary Prologue: Nuisance Law

Before this century, landowners were relatively free of controls. When neighbors complained about a noxious land use, they went to court to have it declared a nuisance. Courts could require that nuisances be stopped, and that damages be paid. Nuisance law is not the primary basis for today's land use law. Instead, most current governmental regulations are supported by the state's police power to promote the health, safety and welfare of the community by regulating persons' conduct.

Federal Influences on Land Use

The Constitution protects private landowners' property rights. Private property, individualism and private enterprise made the United States the industrial leader of the world. However, uncontrolled land use

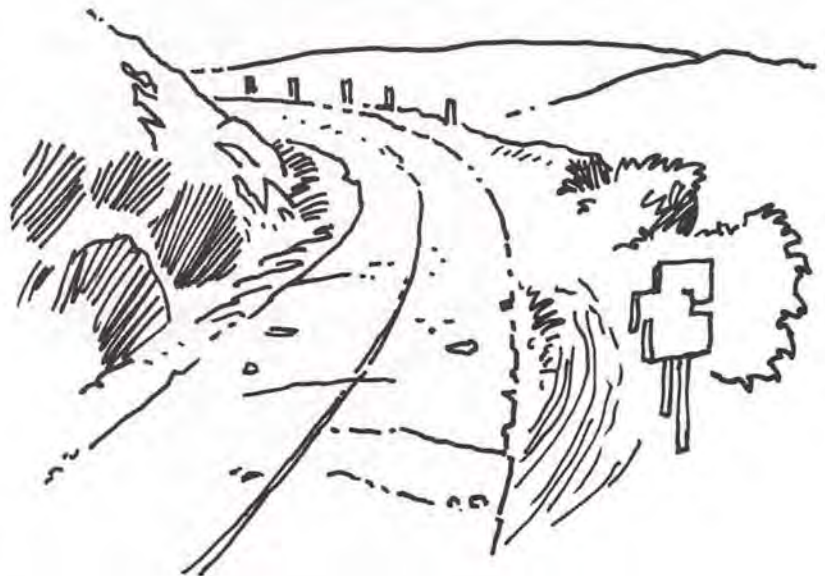
brought about imbalances which local and Federal governments now seek to correct.

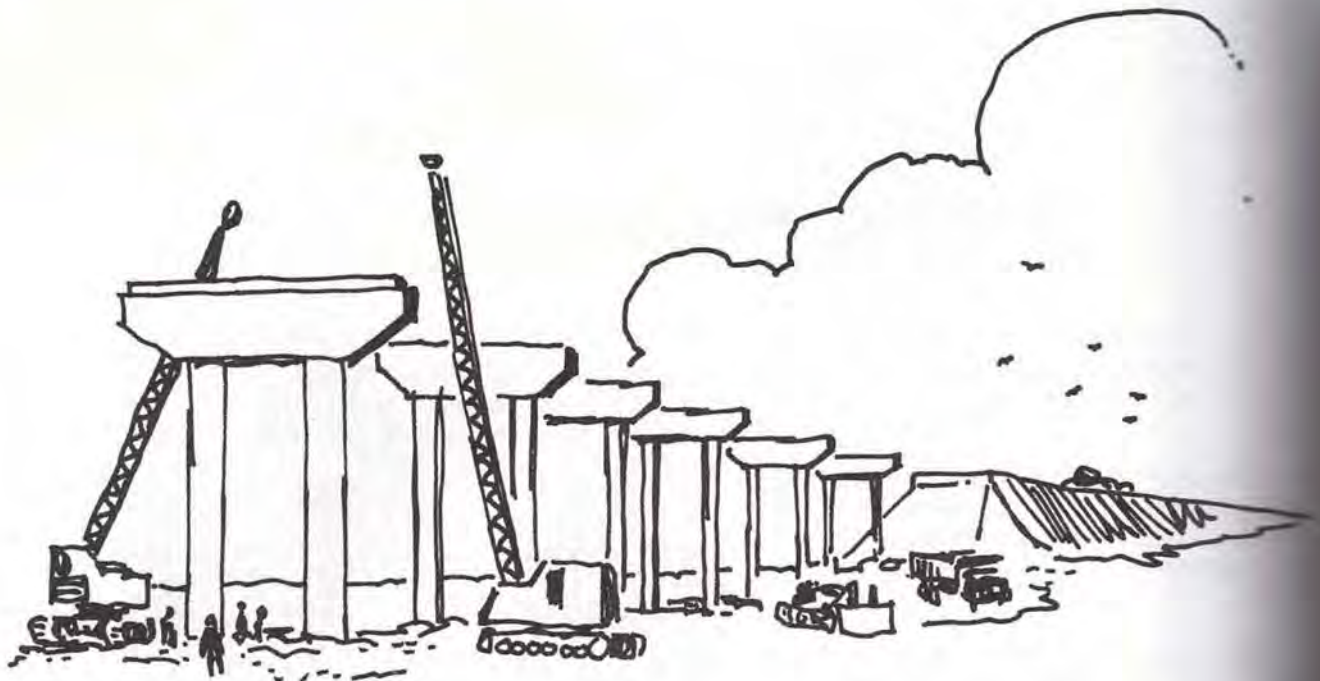
Arguably, the Federal government lacks constitutional power to directly control private land uses. However, legal precedence indicates that Congress could control land use under its power to regulate commerce. The Federal government seldom tries direct regulation, choosing instead to influence private persons and local governments by funding mutually beneficial programs.

Transportation

Under the Federal-aid Highway Program which began in 1921, States have received billions of federal dollars for highway planning and construction. States participate in planning, financing and building highways. In 1956, highway-related excise taxes were earmarked for highway construction. Money for this Highway Trust Fund has helped build an impressive highway system, including the soon-to-be completed interstate system.

Recognizing that urban areas need subsidies for mass transit, the Federal government has provided funds for planning and purchase of facilities. Debate now centers upon whether highway trust funds may be used for mass transit. With or without those funds, federal support for mass transit will increase and have a marked impact on land use.





Housing and related development

During the 1930's, federal programs were devised to improve home financing, eliminate slums, and aid the construction industry. Among the significant programs which developed from this beginning are:

- * The Federal Home Loan Bank and Federal Savings and Loan Insurance Corporation, which strengthened financial institutions which lend money for housing construction and purchase.
- * The Federal Housing Administration (FHA), which along with the Veterans' Administration insures home purchase loans to encourage private lenders to make low-down-payment, longterm loans to home buyers.
- * The Federal National Mortgage Association, which buys and sells insured loans, thereby giving them liquidity.
- * The Public Housing Program, which subsidizes local housing authorities to enable them to clear slums and build and operate housing projects for low income families.
- * A subsidy system under National Housing Act to enable low-moderate income families to buy or rent standard housing at payments below the market level.
- * An urban renewal program which provides subsidies to enable cities to buy and clear slum and blighted areas for resale to private investors who agree to rebuild according to the renewal plan. Federal subsidies cover 2/3 or 3/4 of project cost.
- * A broad-based Model Cities program

which provides federal funds to cover 80% of the cost of local programs which deal with health, housing, education, employment, social problems and other factors in designated problem neighborhoods.

- * Planning assistance provisions of the National Housing Act to help smaller governmental units develop comprehensive plans, and to establish regional planning agencies to plan on an area-wide basis.
- * A New Communities program which provides grants and loan guarantees for private developers and public bodies to build totally new communities and revitalize old towns.
- * Federal assistance for open space acquisition to provide parks, preserve scenic areas, and curb the excesses of urban sprawl.
- * Rural Development Assistance providing loans and grants to private and public agencies to make rural areas more attractive.

Some federal programs such as FHA function with little direct involvement with state agencies. Other programs, however, interrelate federal, state and local action. For example, the Federal government provides funds for subsidized public housing, but must pass enabling laws authorizing local governments to participate; and local governments must implement the programs. The same pattern is followed in urban renewal and planning assistance programs.

Cities sometimes do not participate fully in federal programs, to the disadvantage of low income families and other groups who would be benefited by the program.

Federal programs often place conditions upon receipt of funds. For example, to obtain certain renewal funds, cities must meet federally devised 'workable program' requirements. Cities are thus encouraged to use their police power to control land uses through zoning, building codes and housing codes, and to plan wisely.

Environmental protection

Dams, highways, military installations, waterways and other public works are necessary, but they sometimes affect the environment adversely. The National Environmental Policy Act of 1969 requires that all federal agencies prepare and file environmental impact statements which measure the total costs and benefits of their projects. This requirement applies to federal-aid programs such as highways and others in which federal funds are spent. Citizens have experienced considerable success in enjoining projects where statements have not been filed.

Water pollution

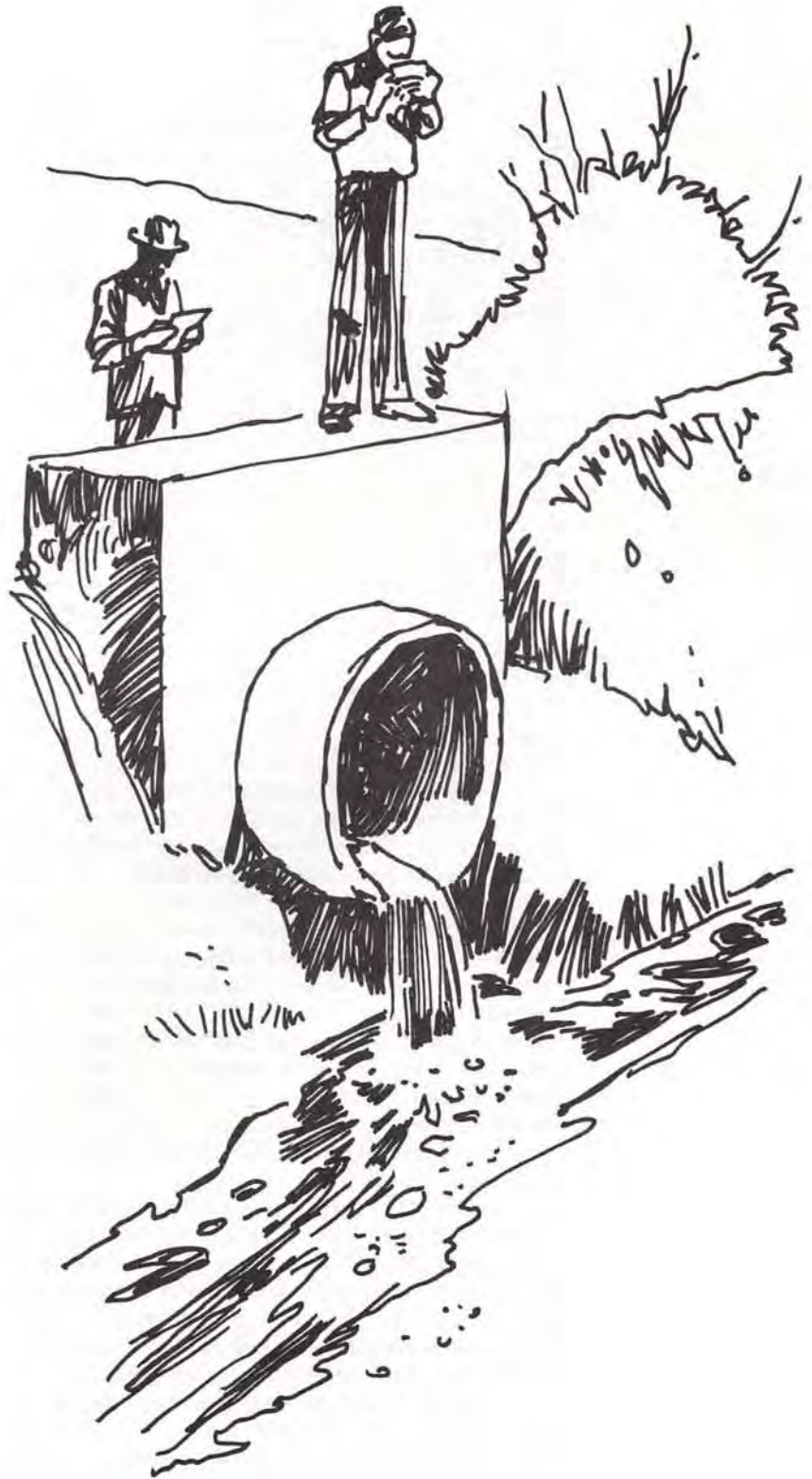
In 1972, Congress placed strict federal limits upon water pollution by private and public agencies. States may participate in enforcement by setting up appropriate machinery; if they do not, then federal agencies will take over implementation.

Coastal Zone Management

The Coastal Zone Management Act of 1972 challenges states to properly manage their coastal zones. Federal funds are to be provided for planning, program development, and administration of coastal zone programs.

Power Plant Siting Bills

Although power plants are essential, they are often unsightly, sometimes detrimental to the environment, and potentially dangerous. Accordingly, local governments and environmentalists have kept power plants out of so many areas that electric companies



are finding it difficult to supply the nation's power needs. Pending legislation balances the need for such facilities with environmental issues, and places direct responsibility upon states to participate in the decisions.

Land Use Policy and Planning Assistance Bill

Sponsors have reintroduced this sweeping control measure in 1973. It would provide federal funds over a five year period to help states set up land use management systems. The systems must include an inventory of present resources and potential needs, and provide controls over developments in areas of critical environmental concern, large scale developments, key facilities (such as power plants) and land uses of regional benefit. The activities of state agencies which affect land use must be coordinated to reflect overall state planning policy.

Conclusion

Federal legislation and pending bills require the states to undertake serious land resource management. Present programs emphasize state planning and state determination of policies. If states do not respond, then the opportunity for self-determination is likely to be lost to federal action.

Land Resource Management in Texas

The Tenth Amendment reserves to the states all power not delegated to the Federal government. Texas thus holds residual power over persons and property within its jurisdictions. These powers are limited by the Fourteenth Amendment, which prohibits any state from denying persons of property without due process of law, and denying persons within its jurisdiction equal protection of the laws. The State Constitution also prohibits taking of private property for public use without payment of compensation. States may pass reasonable regulations under their police power to promote the health, safety or welfare of the community.

Courts classify zoning, subdivision regulation and other land use controls as regulations under the police power. Therefore, property owners need not be paid for losses in value resulting from such regulation. These land use controls have traditionally been applied by local governments, and not by the state itself. However, local governments draw their powers entirely from the state. Therefore, the state may regulate land use directly, so long as the police power standards of reasonableness are met.



Enabling acts

Cities and counties have no inherent powers. Therefore, they cannot lawfully act unless the state grants them authority. Texas has authorized cities to zone and to regulate subdivisions. Texas has not authorized counties to zone, and has given counties very little power to regulate subdivisions. Land development in unincorporated areas is virtually unregulated as to location, and there is little regulation as to standards.

Special purpose districts and authorities

Airport authorities, river authorities, and water conservation districts, navigation districts, and water districts perform special services which affect land use. Although the activities of these entities are regulated and coordinated, they may sometimes work at cross purposes. Adequate regulation may require greater coordination and control over these agencies.

State regulation of natural resources

State agencies make and enforce regulations concerning air and water quality and oil and gas production. State beaches have been declared to be open for public use and regulations have been established.

Administration of state resources

The General Land Office, the Texas Highway Commission, the Texas Water Development Board, the Texas Parks and Wildlife Department, the Texas Soil and Water Conservation Board, the Texas Industrial Commission and other State agencies each administer state resources which directly affect land resource management. Many of these agencies are autonomous and their actions can be difficult to coordinate under established state policies.

Formulation of coordinated policies for land resource management

Texas has established a system for coordinating state agency activity. Although the Governor is the chief planning official for the State, he does not have direct control over the agencies. Currently, coordination is a function of the Interagency Council for Natural Resources and the Environment. The Division of Planning Coordination assists the council, and has begun to set up planning systems and undertake planning projects.

Leading proposals for land resource management

One proposal following the general outlines of the proposed Land Use Policy Bill would give the state authority to regulate development in areas of critical environmental concern, control key facilities placement, and establish a state management system. Less comprehensive proposals would extend city and use power into areas of extraterritorial jurisdiction and give counties greater land use control authority in unincorporated areas. Another proposed bill would place land use control in the office of the Land Commissioner and give regional planning commissions zoning power.

Regional Planning Commissions

Texas conformed with federal requirements of areawide planning by authorizing local governments to create regional planning commissions (RPC's). RPC's develop regional plans and encourage cooperative action by local governments. They also review and comment upon area government applications for federal funds. RPC's may perform services for member governments by contract. Twenty-four RPC's have been formed in the State's 21 official planning areas covering 97% of the State's population. RPC funding is federal, although local and state contributions must be maintained at prescribed level.

RPC's are worthwhile, but their future is uncertain. They need adequate funding and a clear role. They may become regional-state governments with a host of powers, or they may continue to be purist planners. Although they may be better qualified technically than counties to enact and enforce area zoning and development regulations, they may be ultimately disabled from playing an adequate role.

County Control Over Land Use

In many states, counties impose extensive land use controls, including zoning, subdivision regulation and building codes.



Texas counties have no general zoning power, no power to regulate buildings, and very little subdivision control power.

Potential for metro government

Counties may enter into cooperative agreement with cities and other governmental bodies. By constitutional amendment, the legislature is authorized to combine city-county functions.

Specialized zoning power

Three counties have power to zone around recreational areas. Counties may zone around airports, and they may regulate buildings in flood plains.

Subdivision regulation

Counties may set regulations concerning minimum street widths, street design, construction and drainage standards as a condition of plat approval for new subdivisions in unincorporated areas. Developers however may avoid regulation entirely by selling by metes and bounds instead of by plat description.

Waste disposal and sewage regulation

Counties may engage in waste disposal service and regulation. In coordination with



the Texas Water Quality Board, counties regulate private sewage facilities.

Highways and parks

Counties participate in road and highway planning and maintenance, and acquire and maintain parks.

Conclusion

County roles in land resource management have not been determined. Logically, they could be significant participants. Counties are larger geographically than cities, and unlike Regional Planning Commissions, they have the governmental tradition and political power to implement newly assigned governmental functions. However, they may not be efficiently structured for land use management, e.g. many officials are elected and autonomous, and the Commission Court has so long concerned itself with maintenance that it may not easily shift to policy formation and implementation. Regardless of their final role in land resource management, counties should be given interim power to zone and to establish and enforce comprehensive subdivision and building regulations.

City Land Planning and Control Powers

Nationwide, cities have been the governmental entities most concerned with land use control. In the 1920's, the Department of Commerce published model planning and zoning acts for state adoption. Texas adopted the zoning and subdivision regulation acts, but did not enact the official map provisions. Cities are

empowered to plan and establish planning commissions.

Streets

Cities may control their streets, and require that subdivisions within city limits and within their extraterritorial jurisdiction conform to city plans. Cities are not empowered to prevent landowners from building in projected extensions of city streets without payment of compensation. Cities may establish building lines to allow future widening of the street and perhaps to protect extensions.

Zoning

Cities may establish land use districts, e.g. residential, commercial and industrial, and prohibit construction or use of structures which violate the use designations. Zoning may also establish set-back, area and height limits for buildings.

Zoning is a constitutional exercise of the police power, and landowners need not be paid for losses attributable to reasonable regulations. Uses which do not comply with a zoning ordinance, but which existed prior to its enactment are called "nonconforming uses." Although a city may not require that nonconforming uses be terminated immediately upon passage of the ordinance, it may require that they be eliminated after a length of time sufficient for the landowner to amortize his investment.

Boards of adjustment hear appeals from decisions of zoning officials, grant variances, and grant special exceptions. Variances are granted when strict enforcement of the ordinance would cause undue hardship to a property owner. However, variances may not be used to change the district land use restrictions. Many boards of adjustment grant unlawful variances to persons seeking to use their property in violation of the zoning ordinance.

Several Texas cities use new zoning techniques, such as planned unit development and land use intensity restrictions. Texas courts have been generally favorable to reasonable exercise of the zoning power. However, courts have announced a strict "spot zoning" test which requires cities to show change of conditions or original mistake when zoning small areas. Some cities use zoning to exclude poor people and apartment dwellers. These ordinances may be unlawful, according to recent cases dealing with "exclusionary zoning."

Subdivision regulation

Texas cities may regulate new subdivisions within their limits, to insure that street layout and naming systems are followed, adequate drainage is provided, streets are paved, and the city's general regulations are observed. Some cities require developers to dedicate parks and school sites to meet the

needs of their subdivisions.

The subdivision control system is keyed to plat approval. High quality developers will file a plat of their subdivisions. Plats cannot be recorded without city planning commission approval. Therefore, regular land development will come under the regulatory system. Low quality subdivisions may not be regulated, however, because the developer may convey his lots by "metes and bounds" instead of by plat description. These "red flag" subdivisions are likely to be deficient in quality, sometimes having poor drainage, unpaved streets and no utilities. Although cities are authorized to enjoin subdividers from violating their ordinances, they seldom find the developer before he makes his lot sales. After the lots have been sold, the city may refuse to connect utilities and refuse street maintenance. These measures, however, punish innocent lot buyers and do not affect the subdivider.

Cities may extend their plat approval control into their extraterritorial jurisdiction established under the Municipal Annexation Act, thereby gaining a degree of control over developments which they will probably annex in the future.

Building codes and housing codes

Many cities have passed building codes and housing codes to qualify for urban renewal and other programs requiring workable program certification. Building codes set standards for new construction; housing codes set standards for dwelling units, whenever built. Although there are no express statutes authorizing such codes, Texas courts have upheld city enforcement of building codes. These codes are designed to upgrade housing through exercise of cities' police power. In practice, they may raise housing costs, increase slums and contribute to urban sprawl.

Annexation

The Texas Municipal Annexation Act creates rings of extraterritorial jurisdiction around each city, ranging from 1/2 mile to 5 miles, depending upon city size. Within this ring, no other city may incorporate or annex territory. Although cities have no general governmental powers in their extraterritorial jurisdiction, they may by ordinance extend their subdivision regulations into the ring.

Hawkins v. Town of Shaw: A constitutional right to equal services?

A Federal court has held that cities must not discriminate on the basis of race when they provide services. Most cities have identifiable racially separated sections. Services are usually better in the white section. Cities may be constitutionally required to bring both sections up to the same service standards for pavement, street lights, utilities, and other city services.

Conclusions

Cities need power to establish the location or extensions of existing streets and to prevent landowners from building therein. Texas cities have generally adequate power to control land uses through zoning. However, the systems are complex and local authorities do not always know how to exercise their powers. The plat approval process is inadequate as a means of controlling new subdivisions. Cities need automatic approval over inferior subdivisions as well as high quality subdivisions. Cities also need more control over lands which they will some day annex.

The American Law Institute has developed a Model Land Development Code which modernizes the old zoning enabling act and subdivision control acts. Texas should examine this Act for possible adoption.

Private Deed Restrictions

Developers of modern middle and upper income subdivisions establish private deed restrictions which limit lot buyers to permitted uses. Restrictions often run twenty-five to fifty years, with automatic renewal for ten-year periods until lot owners decide to terminate them. Restrictions run with the land and bind all later lot owners.

If a lot owner violates subdivision restrictions, his neighbors may bring a private law suit to enjoin his action. A court may order him to conform to restrictions, even requiring that a house be torn down to keep set-back lines intact. Courts will not enforce restrictions if complaining lot owners wait too long to bring suit or if conditions have so changed inside the subdivision that enforcement would not preserve the residential character of the neighborhood.

Deed restrictions and zoning work side by side. The city enforces zoning while private lot owners enforce deed restrictions in their subdivision. In unincorporated areas, developers may use the deed restriction system to support community type facilities, such as swimming pools, golf courses, open space, garbage collection and private security forces. Assessments for these services may be made a lien against the lots by deed restrictions.

The popularity of deed restrictions may create inflexible land use patterns which will inhibit desirable renewal and reuse of land in restricted areas. Restrictions which establish large lot sizes and high building costs may exclude lower income persons and apartment dwellers from some areas. Use of deed restrictions to fund private recreational facilities may endanger the traditional use of government to

provide these services for persons of all incomes.

Private deed restrictions are particularly important in a city such as Houston, which does not have zoning. However, enforcement is expensive and subdivision residents may not be able to bring suit. At Houston's request the legislature authorized cities to join private suits to enforce deed restrictions, thereby shifting the cost of enforcement to the city. Houston has a formal system for enforcing private restrictions through the city attorney's office.

The legal bases for land use controls discussed here have had and will continue to have a significant impact on the manner in which land is used or developed. This type of legislation was enacted in response to issues which arose in connection with existing or proposed uses of land. Consequently, it is expected that future legislation or other land management mechanisms will be based on the examination of land use problems and efforts to reach equitable solutions.

Problems and Issues

During 1972, many events occurred in Texas which are indicative of land use problems. For example:

- * A farmer in the High Plains of West Texas gazed at his land and speculated about the number of years he could continue to irrigate his crops from underground water supplies which are rapidly being depleted.
- * Tragic loss of life and extensive property damage occurred when torrential rains caused flooding below Canyon Dam along the low lying areas adjacent to the Guadalupe River.
- * The San Jacinto Monument near Houston sank approximately six more inches due to land subsidence which is occurring there and in nearby areas of Harris and Galveston Counties.
- * Two sites were selected on which nuclear energy plants will be constructed, and others were being considered. These plant sites require the use of several thousand acres of land.
- * A hearing was conducted by the U. S. Corps of Engineers in Fairfield where varying opinions were presented concerning the proposed construction of a large canal along the Trinity River from the Gulf to the Dallas-Fort Worth area.
- * During a special session of the Legislature, funds were appropriated to study the possibility of locating a superport off the Texas Gulf Coast.

These and many other events, though seemingly unrelated, are representative of existing or potential land use problems which are the cause of growing concern among governmental entities and private citizens alike. Taken singly, these problems would not seem an obvious statewide impact. In combination, they are significant. When multiplied, they become crucial.

Estimates based on an analysis of 1970 census information indicated that the population of Texas will approximate twenty million persons by the year 2000. This increased growth will have numerous impacts.

Texas is indeed fortunate that most of the land use problems associated with older, highly industrialized, and densely populated areas of the country can still be avoided here. However, this will require prompt consideration and determination of issues which can be classified as problems related to the use of land resources.

Extensive research has been conducted to determine the nature and extent of land use problems in Texas. During this investigation, it became apparent that there are conflicting opinions over the definition of some land use problems. A situation classified as problematic by one group might well be considered as beneficial or necessary by others.

Because most land use attitudes are influenced by the location of people, their lifestyles, and resulting local conditions, different groups within the State have varied goals and priorities. However, there are some problems which are of such significance that they are considered to be of statewide concern, or at least of regional significance.

Land Use Problems of Statewide Significance

Some land resources and uses of land, selective in number but of great significance, have wide-ranging importance which extends far beyond the immediate area in which the resource or land use is located. These may be classified as land resource problems of statewide concern.

Texas Gulf Coast

Land use practices in this part of Texas will continue to have a significant impact throughout the State. Beaches and coastal waters provide opportunities for a wide variety of recreational and economic activities and attract in-state visitors, as well as many tourists from other parts of the country. Unfortunately, some of the areas where the demand for recreation-tourism activities is greatest are also the areas where coastal resources have deteriorated the most.

The dynamic economy created by industry and commerce in this region has benefited the entire State. Yet, the land uses which have been necessary to establish and expand these economic activities sometime conflict with alternative uses that are also desirable. There has been particular concern expressed over the alteration of the environment of bays and estuaries along the coast.

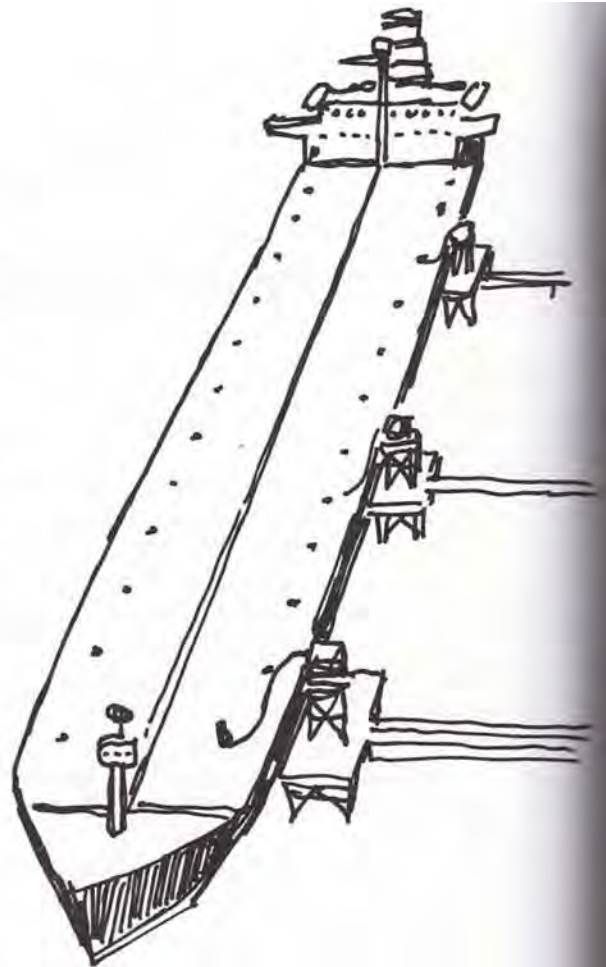
Since there are no ports on the Texas Coast which can accommodate the deep draft tankers now being constructed, urgent consideration is being given to the construction of superports in deep waters off the Gulf Coast. Ports of this type will be vital to the maintenance and expansion of the petroleum and petrochemical industries upon which Texas relies so heavily.

The impact of superports will raise issues associated with increased urbanization and expanded industrial and commercial activities in this already heavily populated and industrialized area.

Metropolitan Areas

About 80 percent of the State's population is now located in six metropolitan areas. If this trend toward concentrated urbanization continues, all of the land use problems associated with urban living will increasingly become matters of statewide concern.

A major problem which already confronts metropolitan areas is the unregulated growth of poor quality subdivisions and



mobile home or trailer parks in areas outside the territorial jurisdictions of incorporated cities. This type of development is commonly referred to as urban sprawl. Some of the consequences attributable to urban sprawl are:

Public agencies are unable to enforce good subdivision, housing, building, or health codes in these unregulated areas. Community services such as transportation, education, fire and police protection are often inadequate. When public services such as sewers, water, gas and electricity are extended, the cost is excessive because of the distance which must be traversed in providing these services.

As metropolitan suburbs and rural subdivisions continue to attract residents from inner city areas, many of these older sections become characterized by deterioration of residential neighborhoods and the accompanying loss of tax bases and purchasing power, social and economic segregation, and other undesirable consequences.

These inner city cores frequently lack adequate community facilities such as parks and recreation areas in locations where they are most needed, and suitable public transportation facilities to serve the needs of the young, the aged, and the poor.

These are but a few of the problems which will need to be considered in terms of their relationship to continued urban ex-

Other problems will be reflected through increased requirements for transportation facilities, adequate water supplies, and power needs, particularly electricity and natural gas.

Water Resources

The aquifers, rivers, lakes, streams and navigable waterways in Texas have exerted a profound influence on the development of the State. Whether manmade or occurring naturally, these bodies of water will continue to attract people, and with them a wide variety of industrial, commercial and recreational activities.

As water requirements have grown with the passage of time, conflicts have sometimes resulted over related land uses. Examples are:

Owners of land which would be inundated by proposed reservoirs have waged lengthy court battles in efforts to prevent condemnation of their property.

Sport and commercial fishing interests are concerned that spawning grounds and marine life are being damaged by ecological changes in bays and estuaries caused by pollution and increased salinity levels.

The construction of canals for barge traffic or for the transfer of water are being objected to by persons who feel that such actions will destroy or damage unique natural areas or wildlife habitats.

Water deficient areas of West Texas have only limited potential for accommodating future growth unless their water supply problems are solved.

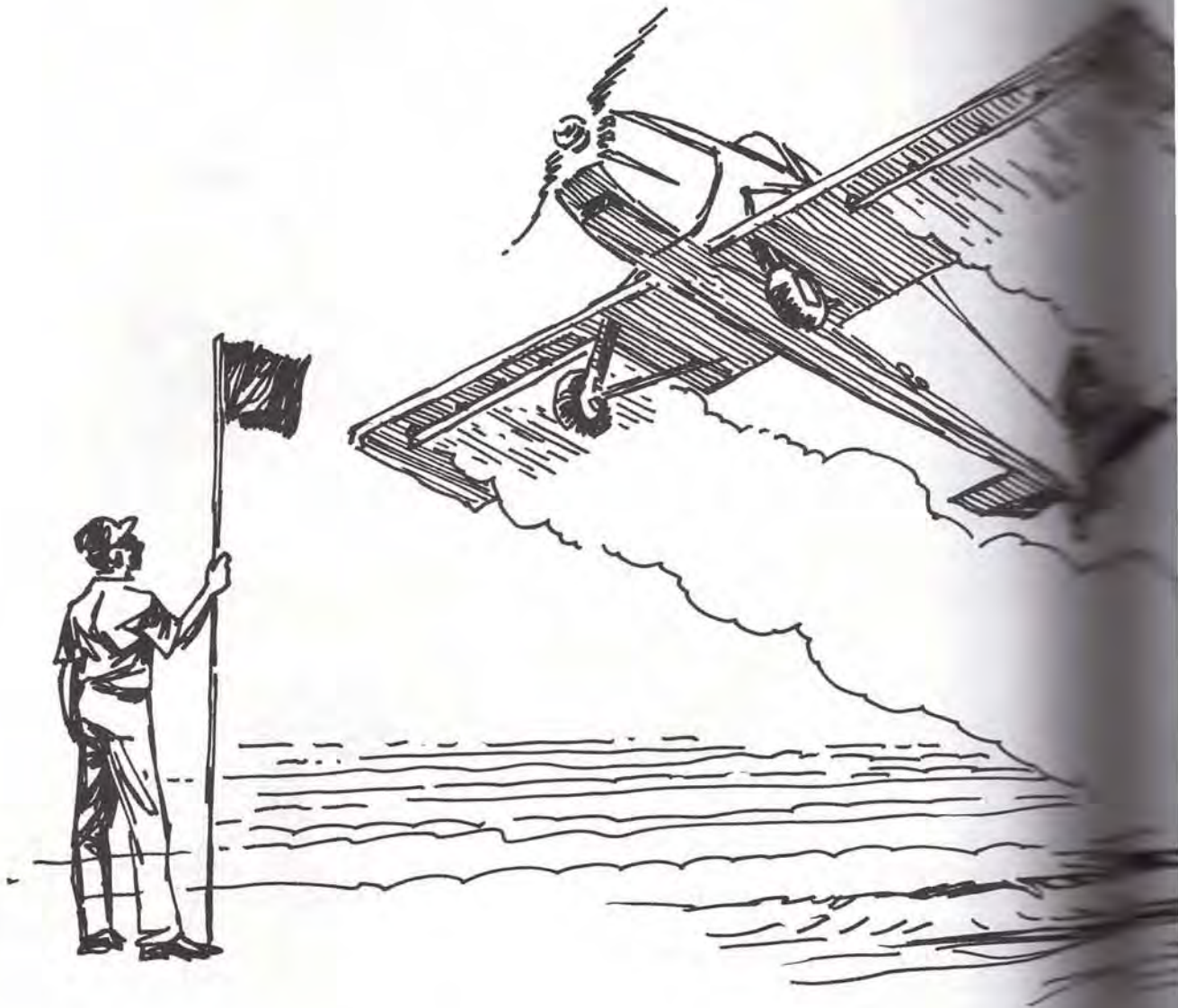
These are some of the problems and issues which must be resolved as Texas considers the most practical and efficient means of managing its land and related water resources. Already, many measures have been taken to alleviate pollution and flooding conditions. Plans are being carefully studied concerning the possible transfer of water from areas of abundance to areas of need. Future policy determinations will undoubtedly have a significant bearing on water and land use relationships.

Transportation

A variety of land use problems have been created as efficient transportation systems were developed to satisfy the needs of an automobile-dependent public. The availability of automobiles and the provision of adequate streets, highways and freeways have facilitated the growth of outlying residential developments of low population densities — primarily single family dwellings. In order to live in these suburbs, families must be finan-

cially capable of maintaining their homes, owning and operating one or more automobiles and parking them in downtown lots. Congested traffic arteries, air pollution and lack of space for downtown parking have





thus become significant problems, despite the fact that extensive land resources have been devoted to these purposes.

Recreation

Continued population growth in metropolitan areas requires additional land for use by facilities such as freeways, housing developments, industrial complexes and water reservoirs. In the past, some of the land used for these facilities has been of recreational, historical or unique biological importance. That these facilities are required to meet urban needs may be self-evident and of wide public knowledge. But the fact that they may encompass needed recreational areas, unique historical or archeological sites, or the last habitat of an endangered species may be understood by only a few. As a consequence,

valuable and sometimes irreplaceable natural areas and resources are committed to inappropriate uses, when alternative sites might be available.

Without protection of the fishing and spawning areas in the state, sport and commercial fishermen alike will be deprived of an important natural resource. For example, fisheries in some areas are endangered by drainage from agricultural lands whose crops have been treated with certain chemicals that are harmful to marine life. Furthermore, the ability of streams, rivers, estuaries, and bays to properly support good sport and commercial fishing activities is impaired in waters which have been polluted by the discharge of improperly treated wastes from domestic, municipal and industrial sources. This problem is now being alleviated to some extent



through the development and implementation of progressive and effective pollution abatement programs by the Texas Water Quality Board.

Signature

As yet, Texas farm lands have not been converted to public uses in quantities significant enough to create serious shortages of agricultural land. However, this does not preclude such problems for the future.

As urban areas continue to expand, and county and school district needs for revenue increase, taxes on farm land often increase to the point that farming operations are no longer profitable. Such land is usually sold for development or to those who can afford to maintain it until it becomes even more valuable for non-agricultural purposes.

It is difficult to predict with any degree of certainty just how much land will be needed

in coming years to produce a sufficient food supply. Consequently, it is vital that options for the future be maintained, especially for those prime agricultural lands which are required to grow important food crops.

Problems of Regional Significance

A variety of issues and problems related to land use have been examined on the basis of their importance to the entire state. The impact of these and other problems will be greater in some parts of the State than in others. At-

tention is focused here on those problems which are of significance to particular regions of Texas.

Region I — Northeast, East, and Deep East Texas

The land use considerations significant to this area do not present problems as serious as those in other parts of the State at the present time. However, expected growth and development in the area are likely to be accompanied by more severe land use problems in the future.

This region enjoys abundant water resources. It is also heavily wooded, and its soil types are capable of supporting a variety of agricultural and non-agricultural activities. Natural resources such as oil, natural gas, lignite coal deposits and timber are also plentiful.

Because of these and other assets, it is probable that Region I will continue to experience population growth and urban development, perhaps at a more rapid pace in the future than other regions. The Trinity River project will be of major importance since its proposed route will traverse the western portion of this region through an area which at present is generally underdeveloped.

This expected growth is a welcome prospect to most residents of the area. However, it will not occur without the creation of some problems which usually accompany urban development. Demands will be created for additional public services in areas where none presently exist. Natural areas and wildlife habitats could be adversely affected. Air and water pollution are likely in the event of increased industrial development or septic tank usage in areas around lakes which are not served by sewage disposal systems. Also, the Big Thicket area in East Texas has been reduced by developmental and forest management practices.

Region II. South East Texas, Gulf Coast, Golden Crescent, Coastal Bend, Lower Rio Grande Valley

Region II extends from the Beaumont-Port Arthur-Orange Golden Triangle down the Gulf Coast to Brownsville and the Rio Grande Valley. Within its boundaries are found a combination of natural and manmade resources, many of which are unique not only to the State, but to the entire country.

The presence of these resources has attracted a wide variety of industry, commerce and people since the early colonial days of Texas. Growth and development has accelerated during the twentieth century causing



an economic impact significant to the state. This development has been so diverse however, that certain interests have found themselves to be in conflict with others in matters which now have a direct bearing on existing or potential land use problems. As development has intensified, however, ecological problems have been created which are of great concern.

Serious land subsidence has occurred in the Houston-Baytown area causing some low lying areas to become submerged or inaccessible. The land in the vicinity of the San Jacinto Monument has subsided as much as 8 to 10 feet and continues to do so at the rate of about 6 inches annually. In nearby Baytown, several hundred homes have been lost or threatened as a result of land subsidence. This has resulted from excessive use of underground water supplies for industrial and municipal purposes, causing the water-bearing strata supporting the surface to become

depleted and ultimately compacted.

Since 1900, a major hurricane has crossed the Texas Coast on an average of about every two years, resulting in the loss of over 450 lives and property damage in excess of a billion dollars. Despite this fact, the coastal zone of Texas is expected to continue major expansion and growth in the future. Sophisticated hurricane warning systems have helped to decrease the dangers to human life, but property damage will probably increase in proportion to additional economic development.

The early development of port facilities in Texas has been one of the major factors contributing to the dynamic growth of the coastal area. There is growing concern about their future, however, because of the rapid development of supertankers with 80-100 foot drafts. This problem has been discussed in detail in the previous section dealing with issues of worldwide concern.

Because of the large population in this region and expectations for its continued growth, it is likely that future energy needs will be met by the construction of nuclear power plants. Each plant site will be large — probably in excess of 3,000 acres — and must be able to support a water supply adequate to fulfill the cooling requirements of the plant.

Region III — South Texas, Alamo (a) and (b), Rio Grande Valley, Permian Basin, Upper Rio Grande

Possibly the most significant factor influencing the use of land in Region III is the location and availability of water. In the past, water resources have been sufficient to support the growth and development of cities such as San Antonio, Laredo, Del Rio, El Paso, Midland, Odessa, and San Angelo. However, these cities are separated by vast stretches of semi-arid land, sparsely populated land used primarily for ranching or recreational activities. Scant rainfall and lack of water resources continue to inhibit development of these extensive land areas.

The two major water supplies in this region are: (a) the Rio Grande and (b) the Edwards underground aquifer underlying the surface of several counties in the region. Neither of these sources of water are unlimited, and when their maximum utilization has been attained, continued growth of the areas which they supply will be stifled unless additional water sources are developed.

Region IV — South Plains, Panhandle, West Central Texas, North Texas

Land resources are abundant, but a majority of major proportions has developed



which will significantly affect land use and economic development in the future. This problem is the decline in water resources.

During the past several decades, abundant agricultural yields from this region have been made possible by the use of irrigation techniques in farming operations. These farming operations have been so successful that the use of irrigation water has increased substantially in the past and is extensively employed at the present time.

Unfortunately, the recharge of these aquifers occurs at a much slower rate than withdrawals, resulting in the lowering of the water table at an ever-increasing rate. Without new sources of water, current farming practices may have to be curtailed with reversion to dry land farming. This would have a drastic impact on the economy of the entire region, the State and the Nation.

Region V — North Central Texas (a) and (b), Central Texas (a) and (b), Capital, Brazos Valley

The area designated as Region V may well experience the most dynamic growth of any region in Texas during the next two decades. Most of the elements necessary to support such growth are already in existence, and others are in the planning or early development stage. Within the confines of this region are found intensive commercial and industrial activities, highly developed highway, rail and air transportation systems, abundant water supplies, extensive agricultural operations and many historical and recreational sites. A major new airport to serve the Dallas-Ft. Worth area, plans for nuclear

energy plants, and the proposed Trinity River barge canal will provide even further impetus for increased population and economic development.

Some of the more significant problems in this area will be related to increased urbanization of both metropolitan areas and smaller towns in the region. Urban sprawl and strip development along major traffic arteries are problems already in existence and are likely to increase. Since this type of development all but precludes the establishment of mass transit systems, a further dependence on automobiles will occur, taxing existing freeway systems and creating the need for more downtown parking space. The older, central portions of existing cities will be subject to increasing pressures which combine to threaten these areas with deterioration and decline.

The proposed Trinity River canal will have a considerable land use impact, both at its northern terminus and along its route to the Gulf. The Trinity flood plain areas in Dallas and Fort Worth would be better protected and could be developed to provide docking and loading facilities and accompanying commercial and industrial installations. Automotive and rail traffic patterns would be somewhat altered in order to tranship raw materials and manufactured goods.

The area traversed by the present course of the river is primarily composed of agricultural, timber and marsh lands. There are differing opinions as to the ecological effects this canal may have on present environments. There would undoubtedly be intensive industrial and commercial development to some extent along this waterway following its completion. Good planning and the use of adequate controls can minimize expected problems such as water pollution, adverse ecological effects, and destruction or loss of prime agricultural lands.

Concluding Observations

The issues which have been raised in this summary have been varied, both in subject matter and in importance. We have examined problems related to the urban environment — the levels of noise, the degree of congestion, pollution of the water and air, time spent commuting between home and work, the cost of providing public services, the convenience of shopping, the nearness of recreation areas, the protection of outstanding ecological system — in short, those elements which are now so much a part of contemporary life.

We have also seen that activities which may provide a personal or economic benefit to one group may result in a use of land which would be detrimental to others. Unique natural or recreational assets are lost to competing land uses. Prime agricultural lands are converted to subdivisions. Old city residential and commercial centers deteriorate into slums. Some zoning practices tend to reinforce social polarization. Urban sprawl frustrates mass transit and sewer services.

These and other issues have been identified, and methods of approach to their solutions are suggested in other sections of this study. In this manner, factual information and objective interpretation of issues are presented with the expectation that they will provide a basis for action by those private citizens and public officials who will have the responsibility to make land management decisions in the future.

Significant Policies

Land management policies have evolved at an ever quickening pace in recent years. They can be identified most directly through the enactment of policy in the form of legislation. Clearly, however, other aspects of land use policy can be found in the interpretation and execution of legislation by responsible agencies. The progressive change in the attitude of federal, state and local governments to land and its management is critical in evaluating the form of a land resource management and planning process.

National Policies on Land Use

The interest Congress has taken in land use has grown substantially and undergone considerable revision since World War II. The evolving land use policies of the federal government reflect such separate goals as: (1) rural and urban economic development; (2) promoting a nationwide multiple-use criteria for federal public lands, incorporating balanced usage; and most recently, (3) accommodating environmental quality as an equal partner to economic growth.

At first Congress relied on several separate agencies to administer land use oriented legislation. Although amalgamation of responsibilities was stated as a goal in the early years, it was never completed. In some areas, however, coordinating agencies were established. For example, the establishment of the Federal Housing Authority, combined with a series of Housing and Urban Development Acts, did move toward centralized administration with respect to urban land.

Following President Kennedy's statement on the need for balanced usage of the nation's lands, the policy of multiple-use development became a national goal. Paralleling this development in federal policy was the first indirect recognition of the present day environmental issue which came in the form of "highway beautification" legislation. Federal agencies were to encourage responsible "balanced" usage and enforce beautification measures.

Change in federal aims not only evolved through definition of new goals and development of new administrative mechanisms, but also through a move toward tightening the links between federal and state governments in land management matters. Congress undertook comprehensive reviews of some of the principal programs involving land use management and development in an effort to bring about better land planning at all levels of government, federal, state and local. This direction by Congress is seen in the passage of legislation providing state and local review of proposed federal projects. At first, this resulted in increased direct involvement of federal agencies with local governments, by-passing state authority, particularly in urban redevelopment areas. It now appears that this process has begun to change under the present administration which has emphasized a recognition of traditional lines of authority and greater responsibility for program definition and execution at the state level.

In 1972, the Senate passed a Land Use Policy and Planning Assistance Act, but it failed to pass the House. A version of this bill has been reintroduced in the 93rd Congress.

The development of a national land use policy will have important implications for state and local governments. The key thrusts of pending federal legislation on land use identifies four principal areas of concern for state and local governments.

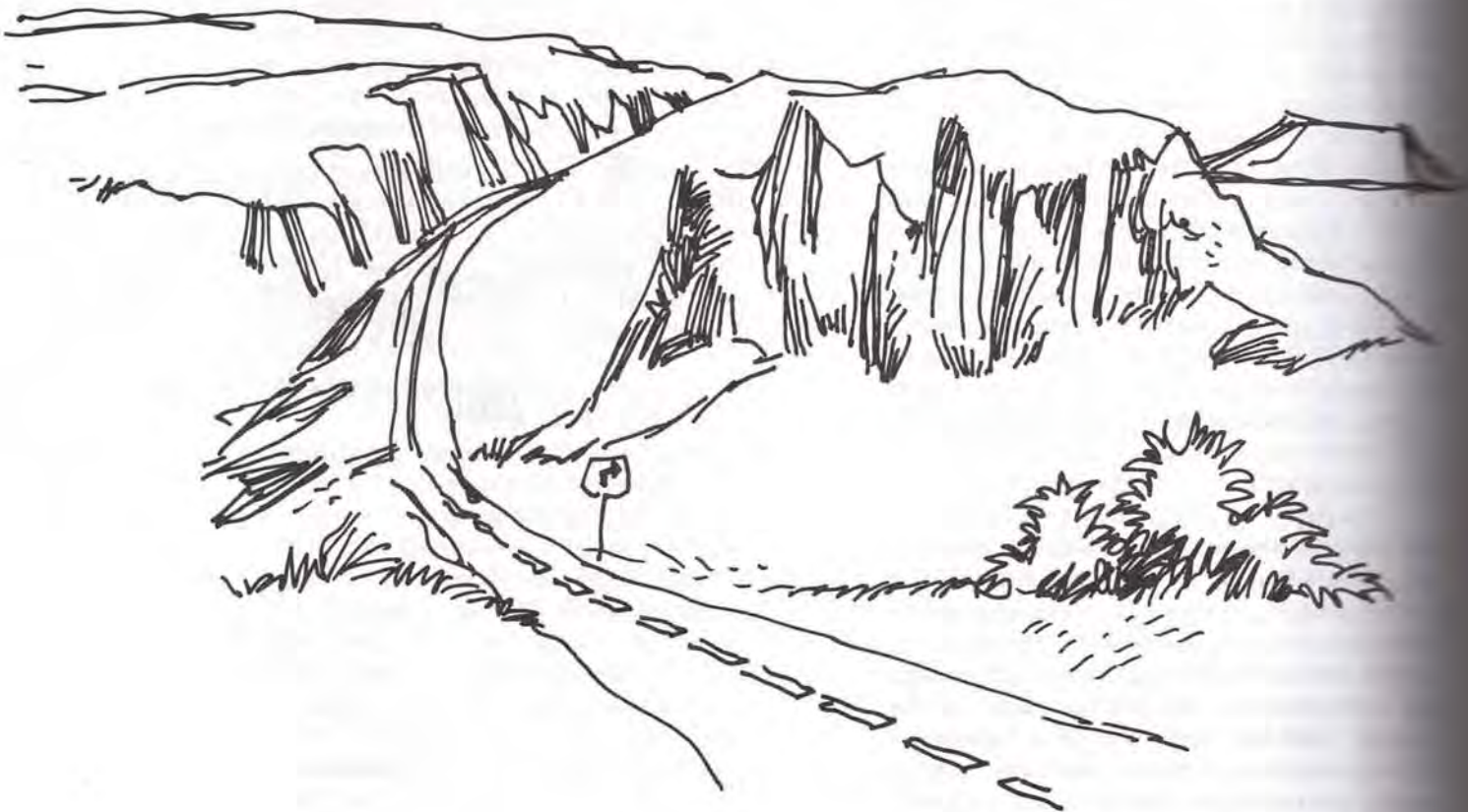
1. The state is to become the new central focus of the system.
2. Based upon the proposed provisions for incentives, eligibility, and/or sanctions outlined in all previous versions of the pending federal legislation, each state will be confronted with decisions associated with the establishment of a new land use planning and management entity, or with assigning new responsibilities to an existing entity. These decisions will include determination of the role, extent of powers, operational relationships to other

governmental units (federal, state, local), and means for smooth integration of this new program into the existing institutional framework of the state.

3. It will become necessary for state government to intervene to some degree in the area of direct land use regulation, an area which has traditionally been a prerogative of local government. Here, policy advocacy, institutional organization, and program administration will be essential functions in any attempt to balance goals of efficiency and equity with the realities of political and economic life.
4. Proposed federal land use legislation implies significant increases in demand for federal-state coordination and cooperation. Recognition of this fact has been a strong theme in all related congressional hearings held to date. If, as proposed, the responsibility for federal land use policy and program administration is assigned to the U. S. Department of Interior, an agency with no regional or centralized state offices, lines of

coordination and cooperation will have to span the distance from state-designated land use entity directly to Washington, D.C. The mechanisms proposed for implementing greater federal-state coordination are for the most part centralized. The proposed National Advisory Board on Land Use Policy seek to provide coordination among the various federal departments. Ad Hoc Federal-State Joint Committees are suggested as a means for coordination between the federal government and state and local interests in matters concerning planning and management of federal lands and adjacent nonfederal lands. The Interior Department is provided the option of establishing regional branches for the Federal Land Use Information and Data Center, intended to provide land use information to all levels of government.

One can conclude from this array of proposed provisions that if federal-state coordination and cooperation in land resource management are to be realized, strong initiative must come from the individual states. Such innovation could represent an opportunity for individual states to assess

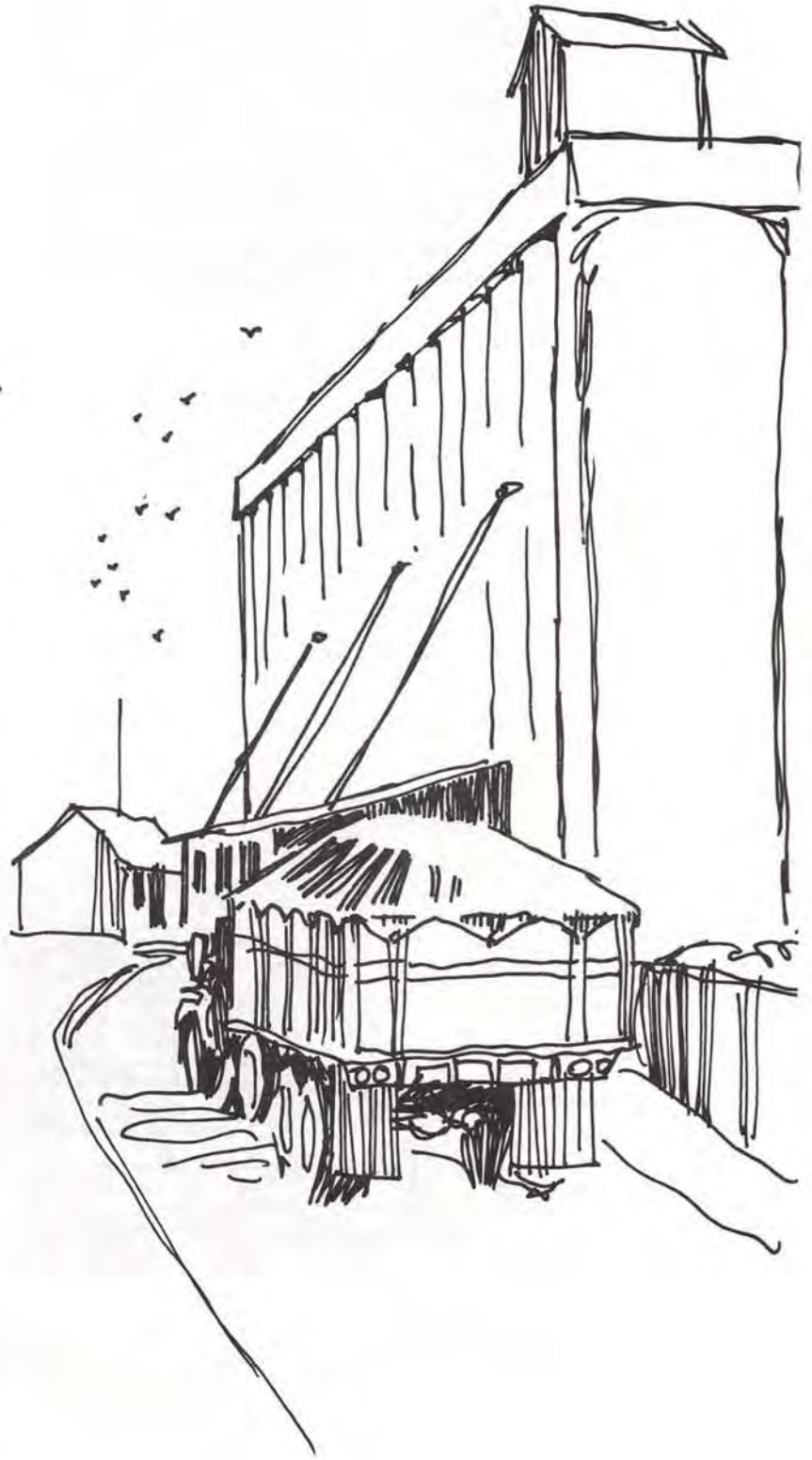


significant new degrees of control over federal activities located within their respective borders.

Present State Policies

Regulation of the use and development of private lands has traditionally and constitutionally been reserved to the states as part of their police power. In general, the states have delegated their authority for direct land use regulation to local government units. Unfortunately the jurisdictional limits of local government have frequently been too restricted to permit consideration of state and regional problems, needs, or goals in the application of developmental controls. Local zoning, a primary instrument of land use control, has commonly been used only to separate incompatible land uses in urban areas. Subdivision regulations have been applied — but irregularly — in suburban areas. Control over land use in other areas has been minimal or non-existent.

Texas has followed this traditional pattern along with most other states. The State has adopted, in the majority of cases, the practice of leaving land use control and development in the hands of local governments. The resulting fragmented structure of municipal zoning and related development controls has long been the primary basis for affecting private land use decisions in Texas. These local controls, as well as the state agencies involved — directly or indirectly — with the administration,

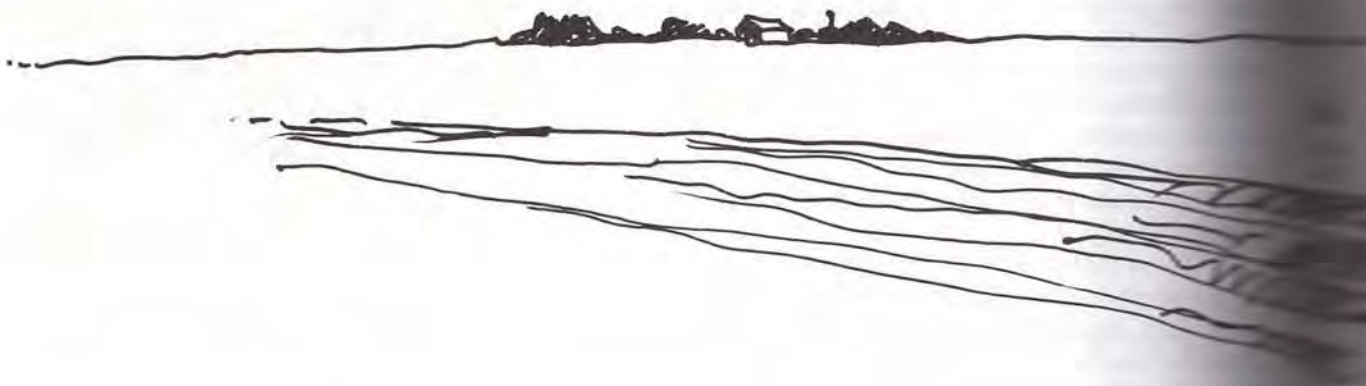


regulation, and coordination of land utilization in the state, are the present basis of state land management policies.

Within the past 5-10 years, most states have experienced growing problems and dissatisfaction with the inadequacies in their state and local institutional arrangements for land resource management and for regulating land use. This manifests itself in a trend to increasing state interest in land use questions and, in many states, more direct state involvement in land resource management. Many states are now administering extensive land use controls at the state level. Hawaii for example has statewide zoning, while Florida designates certain types of development as

having critical environmental impact and permits regulation of those areas at the state level. Other states have sought to develop effective land use control systems involving local or regional government units as well as state government.

The Texas Constitution and the Texas Legislature have created a variety of state agencies, boards, and commissions to carry out the state activities related to land and other natural resources. Although land use planning and control is primarily concentrated in local governmental units, these state units do carry out a variety of necessary administrative, regulatory and/or coordination functions.

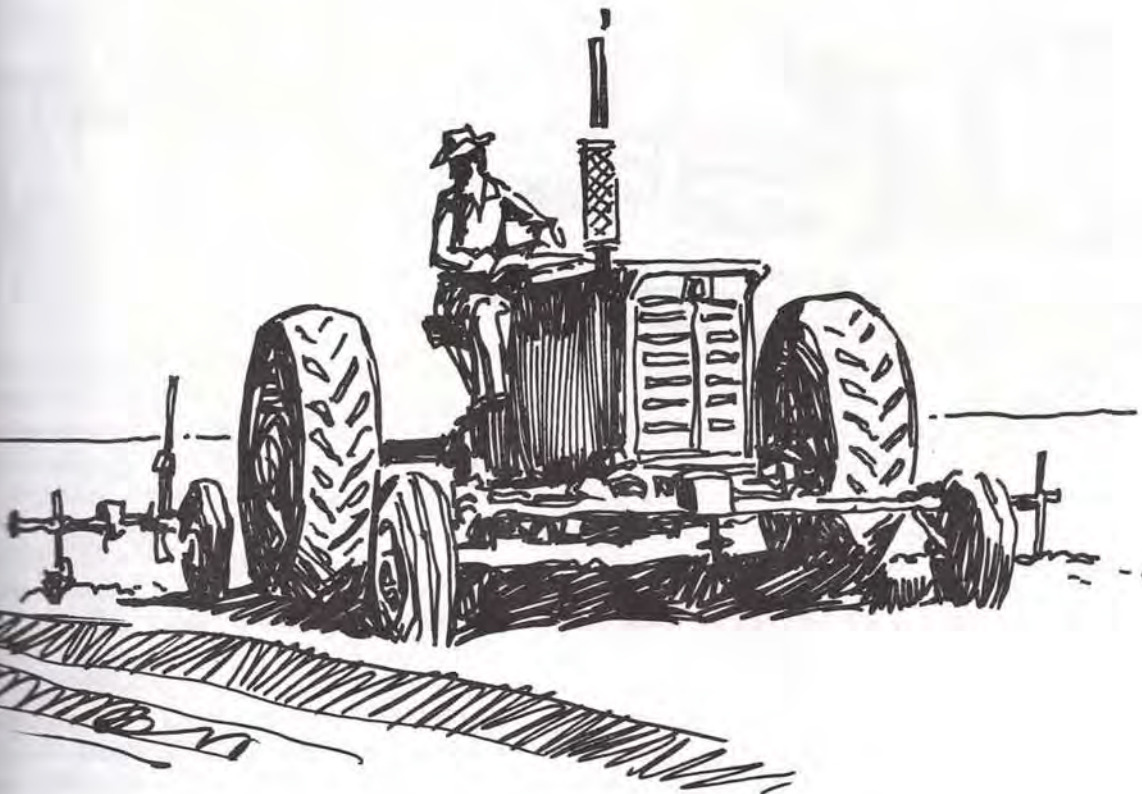


Although Texas has no statewide land use program and does not control areas of critical environmental concern, the review of state policies on land use indicates that Texas has a valid interest and an active role in land use management. Not only is guidance and assistance being provided through legislative and agency initiatives, but critical first steps are being taken to coordinate the land use policies of the various governmental units throughout the state.

Texas has a series of indirect state policies affecting land use. Further land use policies have been expressed through State enabling legislation to local areas. The State has provided cities with substantial land use control powers. Nevertheless, land use conflicts have developed in some areas around the urban periphery due to the lack of land use controls in unincorporated areas. Texas has

provided very little in the way of land use control powers to counties.

In 1967 the Legislature began to institutionalize the planning and coordination function and established planning coordination as a responsibility of the Governor's Office. The Governor's Division of Planning Coordination has taken an active role, along with the State's Interagency Council on Natural Resources and the Environment, in land use program planning and development. Although present activity does not represent any substantial entry by the state into actual land use





control, the existence of a governmental agency charged with the duty to plan and recommend action does institutionalize the function and increases the likelihood of implementing action when appropriate.

Related land use problems currently under consideration by the Division of Planning and Coordination include: a coastal resource management system, power plant siting, and deep-water port development.

The system evolving in the state to deal with land use planning and management issues can probably be modified to meet any federal requirements that might be adopted. The real challenge, however, will be to establish a program by which Texas can equitably serve the best interests of its citizens. The latter will require more than superficial changes in the State's existing arrangements for the development of land use policies.



Local Policies

The policy and policy mechanisms used to influence land use decisions by all levels of government have been identified in the full text of this report. The most significant existing policy is that of the state delegating its authority and responsibility for land use management to the local sub-units of government. The local governments do have powers to influence land use, but there are many problems involved which often make this power less than effective. Too often, individual cases are considered independently, disregarding the total view of the development and broad land use policies. Few local governments have fixed goals for their future growth, and even "Master Plans" have to be couched in terms that indicate frequent change and loose definition of goals. Local adoption of land use goals and plans can be effective, but local governments lack comprehensive jurisdiction to effectuate broad policies. Therefore, land use decisions of more than local significance can be adequately guided only by regional and state policies and programs. They should provide uniform statewide land use policies and goals and, in an advisory capacity, provide needed technical assistance for improved local land use planning and management programs.

In reviewing the local policies related to land use management two aspects of local policy are noteworthy. Particular ordinances, procedures and practices by the local government directly influence land use such as zoning, building codes, etc. Other actions, such as transportation policies, water district establishment, environmental protection ordinances, and the location of sewage lines, involve different governmental and administrative structures, but nonetheless indirectly influence land use.

Private Policies

Private decisions are conditioned by the private market and public policy. The water district problem is an example where the state can take a positive step in resolving problems through coordination of existing land management practices. At the present time both the Legislature and the Texas Water Rights Commission create water districts. This means that such issues as the impact of water districts on urban sprawl is not addressed by one agency with overall responsibility. Land developers, therefore, can use the districts for personal profit without regard to whether the consequences are good or bad for the urban region. The overall management framework needs to be improved, not simply the mechanism (water districts) itself. Private local policies can be expected to take into account larger statewide issues only when there is a coordinated, clear cut, public policy which provides overall guidance through responsible agencies.

Public Participation

In terms of land use management, people have used their own land with a wide latitude of freedom. This latitude has been narrowed only when a clear and present threat to the larger public interest, such as in issues of health, safety and welfare, could be identified. Historically, the public interest in the way in which land is used has been recognized in high density incorporated urban environments for a longer period than in low density rural environments. In even the urban environment, however, there has been a long and noble tradition of public access to the regulatory agencies such as zoning boards. It may even be argued that the reason zoning has survived as a method of guiding land development has been its flexibility and close approximation to the public as an administrative device. Therefore, new policies must continue to recognize the importance of local inputs and flexibility in application while at the same time providing sufficient safeguards for the larger public interest.



Needs for the Future

From the days of the first settlers, Texas has been viewed by its people as a land of unlimited resources. The land itself stretched endlessly in all directions. Energy, in the form of petroleum, was inexpensive and in abundant supply. Water, though relatively scarce in some areas, was readily available in most localities of the State.

Until recently, the people of Texas did not have to concern themselves with the fact that these resources were of limited supply. Oil and water shortages were matters of only academic concern until a few decades ago. The need to reconcile environmental quality with economic growth has only arisen in this generation. In short, only since the turn of the century, has Texas begun to realize the limits of its resources.

With continued rapid population growth and a sustained desire for a higher standard of living, problems of resource scarcity will become increasingly pressing problems for Texas. These problems, in turn, generate:

1. A need for understanding by the people of Texas and their elected officials of the necessity for ecological balance to maintain and raise the income and quality of life of the average citizen.

2. A need for coordination by state government of policies on transportation, energy, water, industry and residential development to achieve a balance between Texas' population and its resource base.

3. A need for restructuring of governmental entities, their powers and jurisdiction, at state and local levels, to facilitate policy implementation for land resource management.

4. A need for creation of mechanisms in government to keep land resource management policies and institutions consistent with changing technology and social preferences.

except in isolated cases. The population and available technology were simply not capable of draining so vast and rich a land. Thus, the problem of balance seldom arose above the scale of individual ranchers or unitary oil fields. As the need for balance was not critical, there was no need to involve government in achieving a balance. Furthermore, the people had not realized, because the problem had not presented itself, the importance of balancing society's demands on the ecosystem with the regenerative powers of the land, air and water.

However, today, the need for balance is becoming increasingly clear. The population

The Basic Need: A Balance of Society and Ecology

In the past, Texas has not extracted more than the sustainable yield of its resources

and irrigated acreage of West Texas must be balanced against the annual ability of aquifers to recharge. The location of industry and population concentrations must be balanced against the capacity of the air, land and water in disposing of wastes and supplying a high quality environment. Unless people are willing to accept a lower standard of living, either in monetary terms or in terms of the quality of their environment, it is essential that Texas strike a balance between the location of industry and population on the one hand, and the availability of water, energy and land on the other.

The Inadequacy of the Market Result

In the past this balance has largely been accomplished through the market mechanism; therefore, little action by government was necessary. Relying on the market to automatically arrive at such a balance is based on the assumption that an optimum result for society as a whole will be achieved by allowing everyone to act in his own self-interest. While this is true in many instances, it does not necessarily mean that the achievement of the overall demands of society conveys a simultaneous guarantee of the long term productivity of the ecosystem.

The desires of the people of Texas as a society are not necessarily identical with the sum of their individual desires as expressed through the market system. Because of externalities and the need to balance use with long-term supplies of natural resources, an increasing number of land use questions cannot be satisfactorily answered by the market system. To achieve a balance between social and individual desires and to have the natural resources to meet those desires, Texas needs an overall land resource management policy.

Coordination Necessary to Achieve a Balance

Land is the locational matrix within which a balance between the supply of natural resources and human demands must be accommodated. The intensity of land use dictated by economics or by governmental action in turn largely determines the intensity of demand for other resources.

This demand for resources is reconciled through trade-offs and an interactive process. Industries have traditionally located close to transportation centers and supplies of inexpensive energy. Similarly, population gravitates to such locations to seek employment. This, in turn, generates more demand for land, energy, water, transportation and other public services. If growth and con-



centration continue, then society will ultimately encounter a resource constraint in terms of water, land or energy.

Thus, achieving a balance between Texas' resources and the demands of its people means encouraging the efficient use of available resources and curtailing practices which might diminish the long-term availability of resources through degradation of the resource base. This balance is necessary if the people of Texas are to achieve the standard of living which can be accommodated by the State's resource base.

The rate of utilization of important resources found in given locations can be properly managed by the regulation of the type and intensity of activities found in these locations. For this reason, a land resource management policy is essential to any state effort in this field. Utilizing this tool, the State and its political subdivisions have the potential, when necessary, to influence the

locational distribution of employment opportunities, residential development, energy sources and public services. Through this influence Texas can protect the resource base while bettering the standard of living of its people.

Tools Available to Achieve Balance Through Land Resource Management

Land resource management is not a new management tool for government. State and local government, for example, have long influenced land use decisions through provision of public services.

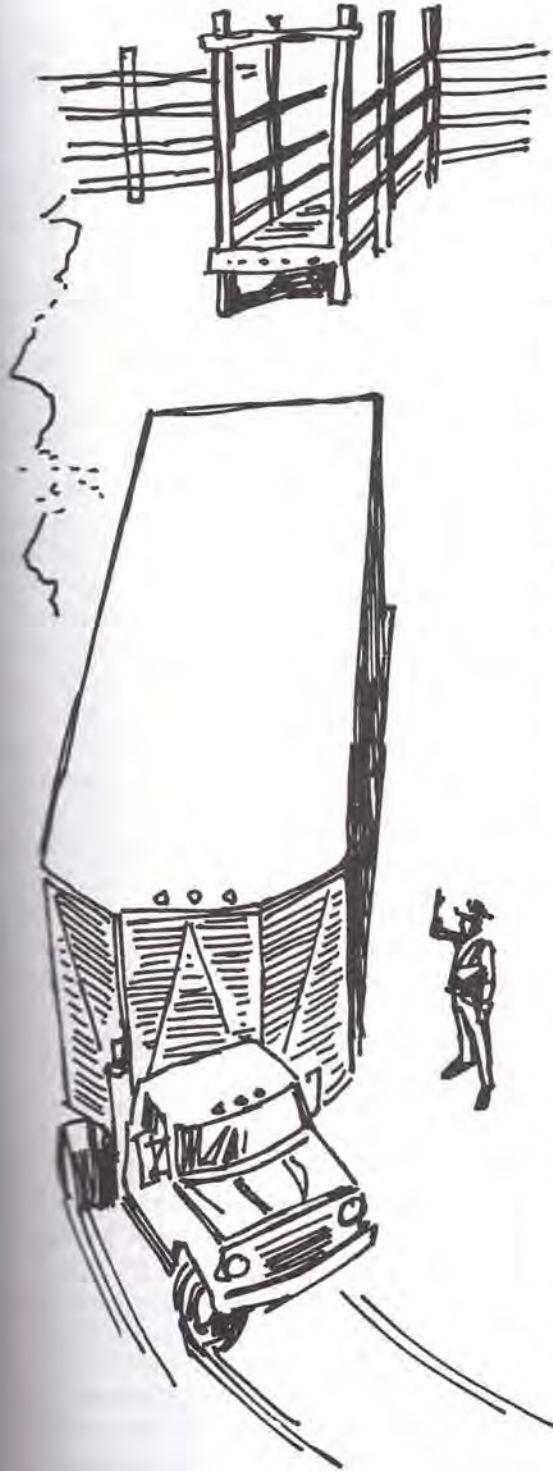
The massive decentralization of cities over the last thirty years was made possible by the construction of highspeed roads and streets by various units of government. The decision to build extensive primary, secondary and farm-to-market roads has probably had more impact on the pattern of urban growth and the location of employment than any state regulatory powers.

Various levels of government have further influenced land use through construction of water supplies, state hospitals, colleges and other facilities which draw people to small towns or deter their emigration to metropolitan centers.

State and local government do not need new powers to influence the intensity of land use through the location of employment opportunities. But they do need the understanding and will to coordinate their own land use decisions to help achieve a balance of resources and population in the various sections of the state.

The power to influence the balance between population and resources through provision of public services is often inadequate to meet specific situations. State spending cannot be geared solely to this concern. Further, state expenditures are not large enough to exert detailed control when small but important areas or developments of state concern are in question.

For these reasons, state power to influence land use patterns needs to be supplemented by providing limited power to regulate land use if land resource management is to achieve the desired balance. Any such regulation would clearly be the exception and not the rule in making land use decisions — to be used only where the private market proves to be inadequate. The State has an excellent opportunity, in the future, to use its expenditures and persuasion to yield a result consistent with the overriding state need for a long term balance between resources, population and a desirable standard of living.





Needs to Achieve a Balance Between Society and Land Resources

The people of Texas cannot move overnight to restore and maintain resource balances. Restoration requires coordinated action by many branches and levels of government. The need for coordinated action means not only the unification of land use policies on paper, but the restructuring of the powers and organization of state and local entities to deal with complex ecological and economic forces. For a land management policy to be politically feasible, the people of Texas and their elected representatives must have a sound understanding of the need for ecological balance, and the potential disastrous consequences of major imbalances.

There is no absolutely "correct" rate or manner in which Texas should use its land and consume its other resources. Resource use can only be evaluated as "efficient" or "equitable" in light of the current ordering of

social priorities and the capabilities of current technology. Thus, there is a need to keep land resource management policies politically and technically realistic by structuring policy-making institutions to be sensitive to the state of knowledge and the changing preferences of society.

The Relation of General Needs to Current Problems

The "Problems and Issues" Report of this study categorizes Texas' current land use problems as those of:

1. Urbanization
2. Water Resources
3. Energy Resources
4. Transportation
5. Recreation

This Section takes each problem category and examines the needs for understanding, coordination, restructuring and mechanisms for change presented by each. As was alluded to in the preceding section, most of these problems are the result of an imbalance between the resource base, the human population and social preferences on style and standards of living. Thus, in general, the needs are to understand (1) the nature of specific imbalances; (2) the means of restoring the balance; (3) the state, local and federal policies which affect the balance; (4) the restructuring of institutions necessary to bring coordinated governmental action to bear on the problem; and (5) the information channels necessary to detect the formation of new problems and imbalances through changing technology and human desires.

Needs for Understanding

The needs for understanding the dynamics of urbanization, water development, energy, transportation and recreation as a foundation for a land use management policy include the following:

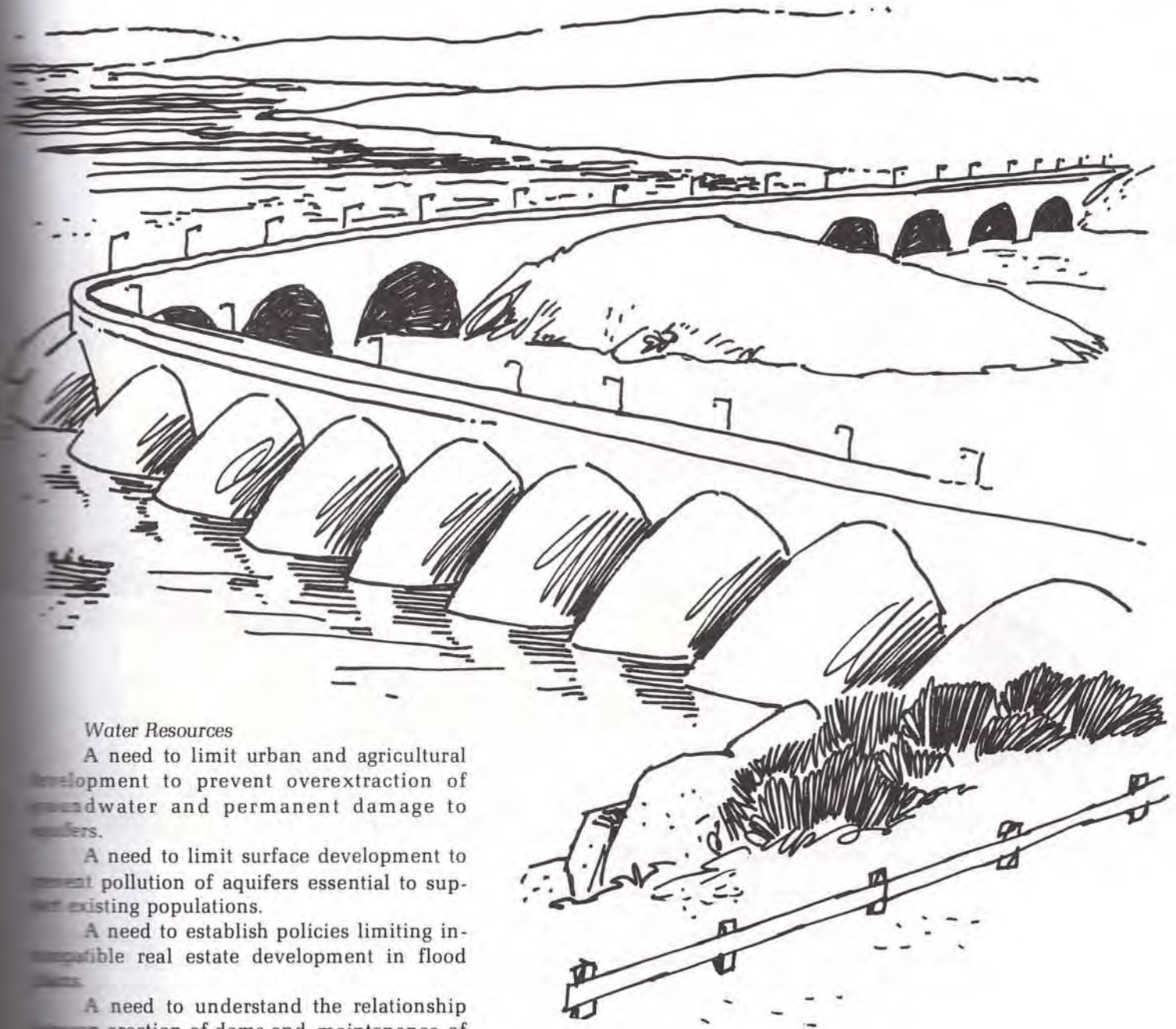
Urbanization

A need to understand the interrelationships of private and public locational decisions and resource policies on the growth and decay of cities.

A need to understand the effect of the pattern of political subdivisions on the growth and decay of cities.

A need to maintain uniform standards in contiguous incorporated and unincorporated areas to prevent undesirable development patterns.

A need to understand the economies and diseconomies of cities of different sizes and densities in the context of given resource availabilities.



Water Resources

A need to limit urban and agricultural development to prevent overextraction of groundwater and permanent damage to waters.

A need to limit surface development to prevent pollution of aquifers essential to support existing populations.

A need to establish policies limiting incompatible real estate development in flood plains.

A need to understand the relationship between erection of dams and maintenance of proper salinity levels in gulf estuaries.

Energy Resources

A need to make the location of new power plants consistent with desired radiation concentrations.

A need to establish state policies for power plant construction to prevent obstruction of the public interest by individual utilities.

Transportation

A need to consider transportation as a factor influencing population distribution rather than simply reacting to present distributions.

A need to evaluate and understand tradeoffs between environmental quality and benefits of new transportation investments.

Recreation

A need to identify and preserve unique scenic and historical sites.



A need to anticipate and act on future recreational needs as determined by desired population distributions.

State government is not alone in its need for understanding. Some of the policies implied by land use management may seem to transcend the proper sphere of governmental action in the eyes of many of the people of Texas. Before they will be willing to vote for or otherwise support land use management programs, citizens and their leaders need thorough and complete information on current problems, future implications of these problems, and the advantages of developing the economy in balance with the land.

As the people are informed of problems, alternatives and costs of action and inaction, they, in turn, communicate to their representatives the order of social priorities they desire. Policies must be responsive to human needs for there is no merit in protecting land and other resources apart from their ability to provide utility to man. Therefore, elected of-

ficials must understand the needs of the people before establishing land use policies. This need must be met before government can meaningfully take any action on land use.

Policy Coordination

Many of the actions of state and local government have a profound effect on the locational decisions of private decision-makers. These actions include:

- Location of highways and highway interchanges
- Airport location
- Water resource development for human consumption, shipping, and flood control
- Location of medical, educational and research facilities
- Location of energy supplies
- Taxation of land and real property
- Location of recreational facilities
- Current zoning and subdivision controls

Some of these policy decisions are made



by state government. Other responsibility for decisions is located in a multitude of municipalities and special district governments. Even the responsibility concentrated in state government is scattered through a myriad of separate state agencies with coordination mechanisms, but no formalized central control.

However, the most important need for policy coordination is the need to increase the communication and cooperation of local governments in the provision of municipal services and in deciding on the location of developments of more than local impact. Although there are encouraging signs of cooperation in the context of the regional council, narrow self-interest is much more the rule when the essential interests of a municipality are involved. Perhaps this need may be better stated as the need to obtain results as if municipal governments operated to achieve state and regional goals. Therefore, the question of whether the need is met through voluntary cooperation, restructuring of local government, or state preemption of decision-making is left open.

With the establishment of the Interagency Councils, communication between state agencies has improved significantly; however, the commission form of government coupled with an executive branch having but few formal powers has resulted in the creation of a series of semi-independent agencies rather than a government capable of unified actions. Texas needs some means to insure improved coordination of agency policies and actions relating to land resource management.

Need to Restructure Institutions

Policy coordination is in large part a matter of information flows and the allocation of decisions-making powers within institutions. A lack of policy coordination indicates that these channels and powers are not arranged to deal effectively with current problems. In order to facilitate information flows and decision powers, Texas needs to consider adjusting institutional arrangements along new functional lines and the creation of new powers in state and local government to make decisions which now require the voluntary agreement of many parties.

At the level of state government, some entity will need to be given the authority to make decisions necessary to plan and administer a broad program for Texas land resources. This will involve some ability to require coordination among existing agencies as well as additional power over private decision-makers.

The needs for institutional restructuring

at the local level are even more complex than at the state level. In some cases there is a need to make decisions on the basis of regional and state goals rather than of single municipalities. In other cases, such as in unincorporated areas, there is a need simply to give some level of government the authority to make land management decisions to prevent substandard development and to forestall uses beyond the carrying capacity of the land.

Need for Mechanisms to Change Policy

When most of the present institutions relating to land resource management were established, the pace of change was much slower than it is today. This is true both as regards technological change and changes in social priorities. Because of this more stable situation, little thought appears to have been given to the ability of these institutions to adapt to meet changing policy needs. Any set of institutions charged with responsibility for managing the balance between populations and their land resource base must be sensitive both to changing technologies and to changing social priorities.

Texas needs institutions capable of analyzing the effects of technological change and altering incentives and regulations so that a high standard of living can be maintained, while at the same time, guaranteeing long-term protection of the resource base.

There are many sets of public and private goals consistent with protection of the resource base; however, there is no single set of goals the state should arbitrarily force on its people. The only way to decide which are the most appropriate sets of goals consistent with resource maintenance is through the political process.

To insure that management policies are devised to meet present and future needs, Texas should insure that the decision-making process for policy coordination on land management questions is amenable to the workings of the political process.

Conclusion

Present institutions are being asked to implement policies and solve problems their designers never envisioned. The need for land resource management is a result of problems which were rather rare only a few decades ago. To properly manage the land so as to achieve a balance between land resources and the demands of the citizens of Texas requires new understanding of the effects of governmental action and on the part of the citizen who will benefit by improved management. This understanding will bring forth a need for policies

which cut across existing geographic and functional divisions of governmental entities at state and local levels. The need to implement thoughtful policies of land resource management presents an opportunity for state, local and private decision-makers to engage in a creative reordering of institutional arrangements to serve the public interest of the citizens of Texas.

Management Approaches

A number of alternative approaches to land resource management have emerged in recent years. However, there is no single best basis for classifying these approaches. Land resource management programs should be problem focused, should contain clear delegations of institutional responsibility, and should include a mix of control mechanisms. What distinguishes one approach from another is the particular combination of problem focus, institutional responsibilities, and control mechanisms employed.

Prior studies, reports, and comments from professional organizations, national advisory groups, and other public and private organizations have suggested a number of institutional changes for dealing with the management of land resources. A number of states have already enacted innovative legislation dealing with land resource management. In Texas, the issue of land resource management has been the subject of many studies conducted by State agencies. It was also the topic of a recent conference sponsored by the Governor's Office and the Council of State Planning Agencies. A major plank in the platform adopted by the Texas Environmental Coalition deals with land resource management. A review and analysis of these recent studies, reports, comments, and suggestions provides a basis for identifying the major alternative approaches available to the State of Texas in managing its land resources.

Previous National Studies of Land Resources Management

The American Law Institute (ALI) has proposed a Model Land Development Code, which takes the position that fully 90 percent of the land use decisions currently being made are best made by local government with no state intervention. The Code recognizes three circumstances in which the state has a valid and overriding interest in how land is used:

1. portions of the state whose environmental characteristics make development of any sort a matter of state concern;
2. types of development that create state or regional benefits; and
3. large scale developments which

because of their size have impact beyond the borders of the local government.

The provisions of the Code essentially allow the state government to override local decisions when those decisions conflict with valid state interests. The state is given responsibility for devising state and regional land resource management plans and for enforcing them, as well as for reviewing local plans and providing technical assistance to small units of government to help them create these plans. The Code also recommends combining zoning and subdivision control into a single development ordinance administered by a single local agency.

The American Society of Planning Officials (ASPO) has proposed an approach in which the primary responsibility for land resource management at the state level would be vested in a state planning agency, acting under a broad legislative mandate. Local governments would be permitted to employ new land





use controls only after they have adopted a plan which has been approved by the state planning agency. Structurally, the ASPO envisions three changes. First, all zoning and subdivision regulation functions would be vested in a single administrative agency directly answerable to the city council or chief executive. Second, planning commissions would be reduced to citizen advisory committees with no regulatory or appellate functions. Third, ASPO envisions adding broader development responsibilities to the jurisdiction of some local administrative agencies, including responsibility for administering local housing programs, conservation plans, and industrial promotion.

The Report of the National Commission on Urban Problems (the Douglas Commission) arose out of a study commissioned by Section 301 of the Housing and Urban Development Act of 1965. The Commission worked under a mandate to find ways of providing housing to low income people by removing barriers posed by zoning, building codes, and housing codes. Related to this, the Commission was also concerned with the influence of municipal finances and ordinances on the pattern of employment and housing. Basically, the Commission made four recommendations touching on land use management: (1) increase the scale of land development; (2) increase the administrative capability of local land use authorities, making the grant of additional land use powers contingent upon the adoption of acceptable plans; (3) increase the availability of low income housing; and (4) allow latitude for local and state authorities to phase new development so as to prevent urban spread.

The National Advisory Commission on Intergovernmental Relations (NACIR) report focuses on the pattern of American urbanization, concluding that the solution to rural out-migration, urban decay, and subur-

sprawl lies in the development of new communities and large scale developments within commuting distance of existing employment centers. The NACIR envisions a major role for state or regional government in the initial phases of development planning, with power shifting to local government during the predevelopment period. The NACIR proposes the establishment of regional or local land development agencies to promote large scale developments. Local land use planning would be done through county planning agen-

Positions Taken by Public and Private Organizations

During the course of the past three years, various private and public organizations have made formal statements concerning the question of land resource management. Many of these statements were presented during the 1969 and 1971 hearings of the United States Senate Interior and Insular Affairs Committee on several pending bills concerning a national land use policy. Over sixty witnesses testified in these hearings. A recurring theme in the testimony was the inadequacy of existing land planning arrangements at the state level. A number of witnesses stressed that the states are potentially capable of becoming the principal architects of a national land resource management system, particularly with regard to developments of regional or statewide con-

At the 1970 National Governor's Conference, a policy declaration was adopted endorsing a national land use policy, and emphasizing that federal efforts with regard to land use policy should be coordinated with and supportive of state responsibility for the management of land resources. The Council of State Governments, in a report released early in 1972, described the status of state activities in land resource management, presented alternative types of state action, and explained the possible effects of the proposed federal legislation pertaining to land use. The Council concluded that a national land use policy should incorporate a combination of federal, state, regional, and local efforts. Representatives of the National Association of Regional Councils and the National Association of Counties stressed the roles that should be played by their respective constituencies in the system of land resource management.

Speakersmen for various private organizations echo the interest in land resource management shown by the public organizations. Indicative of their views was the





comprehensive position paper prepared by Humble Oil and Refining Company. Humble began by recognizing the need for change in the existing system of land resource management, particularly in areas of critical concern. The position paper stressed that the states should play a dominant role in land resource management, new land resource systems should protect private property rights and encourage free enterprise, and state land use systems should adhere to the concept of multiple compatible uses and employ performance criteria wherever possible.

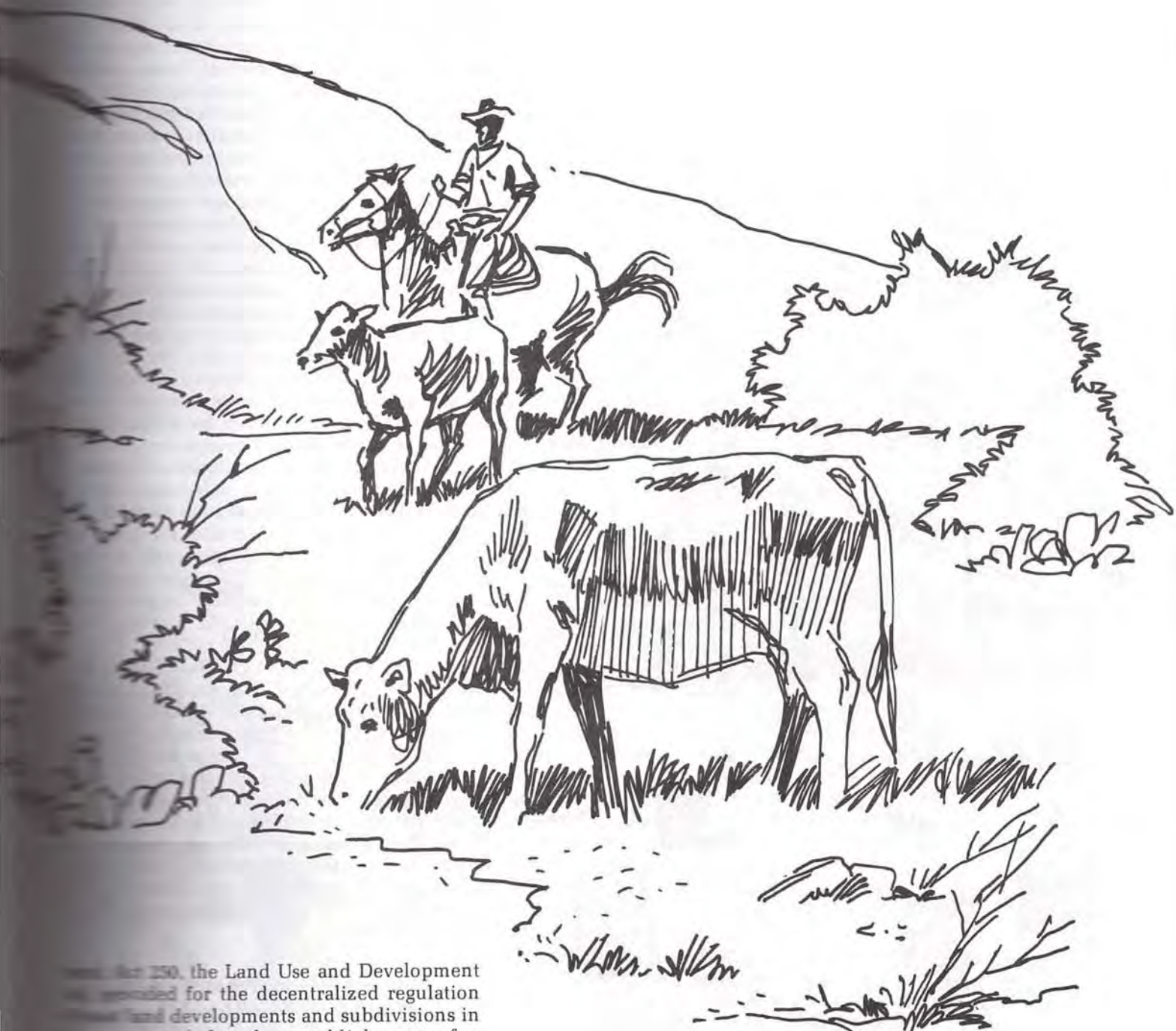
Innovative State Land Resource Management Programs

Traditionally, regulation of the use of nonfederal lands has been reserved to the states as part of their police power. The states, however, generally have not sought to regulate land use directly, but have delegated this authority to local government. Within the past decade, growing dissatisfaction with the inadequacies in present state and local institutional arrangements for land resource management and for regulating the use of land

has manifested itself in a trend toward direct state involvement in land resource management. The factors receiving the most attention in recent state land use legislation are (1) protection of critical environments, such as wetlands, estuarine areas, and flood plains; (2) control over location and character of new developments, defined either in terms of size or significance, or both; and (3) control of growth on the periphery of urban areas. Innovative state programs may be divided into three programs which give the state the dominant role in land resource management, and programs in which the state shares its land use powers with regional and local governments.

In the first category are the land resource management programs of Hawaii, Vermont and Maine. Hawaii was the first state to place statewide zoning power in a State Land Use Commission. All lands in the state were classified into four districts: (1) agricultural, (2) conservation, (3) rural, and (4) urban. In agricultural, rural and urban districts, the land use regulations are administered by counties. The State Department of Land and Natural Resources administers lands in conservation districts.

Vermont and Maine adopted their land resource management programs in 1970 in response to generally perceived threats to the quality of the environment and accelerating growth pressures. Both states reorganized their state governments to place most environmental activities under a single state agency. In Ver-



Act 250, the Land Use and Development Act, provided for the decentralized regulation of land developments and subdivisions in the state, and for the establishment of a statewide land use plan. Under Act 250, the state is divided into eight Environmental Districts. A Commission within each District regulates land use within the District by the issuance of permits for land development. In addition, Act 250 requires the preparation of statewide regional land use plans. Maine adopted its site location law in 1970 which requires land developments to obtain permits from the Maine Environmental Improvement Com-

mission. A Land Use Regulation Commission has jurisdiction over unincorporated areas. Finally, Maine requires municipalities to adopt subdivision and zoning control ordinances in shoreland areas.

Other states which have adopted innovative land resource management programs which provide for a sharing of responsibilities between the state and local units of government are Florida, Oregon, Washington and Minnesota. Under the Florida Environmental Land and Water Management Act of 1972, the governor and his cabinet can designate specific geographical areas as "areas of critical concern," and can establish principles to guide the development of these areas. In addition, the governor and his cabinet are empowered to adopt guidelines and standards to be used in deciding whether certain land developments are "developments of regional impact." The administration of the Environmental Land and Water Management Act is given to the Department of State Planning located within the Department of Administration.

Oregon passed a Zoning Act in 1971 which specified that if there were any lands within a county, whether or not within a city that were not subject to comprehensive land use planning and zoning ordinances, the governor could prescribe such ordinances for the area. The State of Washington has established a State Land Planning Commission which is developing its statewide approach to land resource management. The Minnesota experience with land resource management points up the significance of regional commissions and county planning efforts.

A word of caution is in order, however, regarding the applicability of programs developed to meet the land resource management needs of other states to the needs of Texas. Not only is Texas much more geographically diverse than other states, but it is also unique in political traditions and institutional structure. Thus, while the programs of other states and their experience with them are instructive, they should not necessarily be considered as models for the development of a land resource management system for Texas.

Prior Studies in Texas Relating to Land Resource Management

The issue of land resource management in Texas has been the subject of several previous studies conducted by State agencies. The *Goals for Texas* program initiated in 1969 resulted in the identification of major state goals by program category. Four of the ten program categories — housing, natural resources, recreation and open space, and transportation — contained statements of goals pertaining to land resource management. The



assable list of goals relating to land resource management contained in the second volume of *Goals for Texas* prepared by citizen groups within each of the State's official planning regions, provided a clear indication that pressures were developing for the State to assume a much greater responsibility in this area.

The Texas Urban Development Commission has prepared a comprehensive study of land resource management as it pertains to Texas. The Commission proposes a "unified system of land resource management" with specific responsibilities assigned to the State, regional planning councils, and local governments. At the State level, the Commission views the role of the Governor as being limited to policy formulation. It assigns to the General Land Office prime responsibility for administration of the new land resource management system. The Commission assigns to regional councils certain responsibilities for policy formulation, planning, and technical assistance, but leaves open the question of the extent to which regional councils will become involved directly in regulation and arbitration. At the local level, the Commission proposes that local governments continue to have prime responsibility for planning and regulation with regard to land use.



The Texas Advisory Commission on Intergovernmental Relations has released a report dealing with control of development in the unincorporated areas of the State. The Commission proposes three pieces of legislation which would "extend a broad range of permissive development controls to both cities and counties, allowing them to insure quality development in all areas of the State." These proposals are as follows:

1. Permit the extension of city ordinances governing the construction and maintenance of structures into the area of the city's extraterritorial jurisdiction.
2. Permit counties to exercise the full range of subdivision and building regulations in the unincorporated areas of the county.
3. Permit counties to exercise not only subdivision and building regulations, but also zoning, in the unincorporated areas of the county.

In August, 1972, the Texas Conference on Land Resource Management, sponsored jointly by the Governor's Office and the Council of State Planning Agencies, adopted a position statement urging the adoption in Texas of the approach to land resource management advocated by the American Law Institute in its Model Land Development Code. This approach "puts state government in a position to exercise the necessary degree of control over growth and development of the State, while preserving the process of local government and the rights of private property owners. The role of the State is focused primarily on those land use decisions which would have a substantial impact upon more than one locality, have statewide implications, or require a final state level appellate or coordination efforts." The state land resource management program should provide for the designation of areas and developments of critical state concern and for the establishment of principles, standards, and criteria to guide the use of those areas and developments. The position statement concludes: "The adopted program is not to be one of merely negative controls, but rather an incentive and guide to the State in achieving its goals and objectives."

The Texas Environmental Coalition, founded in October, 1971, recently has adopted a platform containing a number of proposals relating to the "achievement and maintenance of a quality environment for Texas." The planks of the platform are directed primarily toward statewide issues. A major portion of the platform is devoted to issues specifically related to land resource management. The platform calls for the establishment of a "coherent land use regulatory system." Statewide land use management legislation should "provide for comprehensive land use planning and management by all levels of government to

preserve the environment from uncontrolled deterioration." The Coalition suggests that regional governments be vested with comprehensive land use planning and management authority.

Alternative Approaches

Based on the prior studies, reports and comments dealing with land resource management, the innovative state programs described above, and the studies and suggestions that have been made relating to land resource management in Texas, three alternative approaches to the development of a state land resource management plan have been identified.

The first approach is that taken by the majority of the states today, including Texas, in which the state delegates to local governments exist, all have the property of placing principal responsibility on local government, defined to include towns, cities, and counties, to manage the land resources of the state. Direct state action with regard to land resource management is limited under this approach to the administration of state owned lands and the acquisition of land for state purposes. The remaining activities of the state, while admittedly having an impact on land resource use, are not coordinated in any comprehensive way to achieve state land resource goals and objectives. This approach is both politically feasible and administratively simple. However, it does not allow the state to meet all of its land resource management needs. Neither does it permit the state to meet the requirements imposed under the pending federal land use legislation.

The second approach recognizes that the state has an active role to play in managing its land resources, but also recognizes that the state role should be limited and well defined. It begins with the delineation of state goals and objectives and the formulation of a state land resource management plan. It provides for some form of partial state control over land use. However, the primary responsibility for administration of land resource management controls remains with local government. Several variations exist among the states in the definition of those areas or types of development which are of state concern, and for which state guidelines are developed. The precise nature of state controls also is subject to variation. An important, but frequently overlooked element of this approach is the coordination of land use activities of all levels of government to achieve state goals and objectives for land resource management. While the selective application of state land resource management powers would constitute a new venture for State government in Texas, it would be viewed by many as a positive

response by the State to the land resource management needs of Texas and to fulfill the requirements of the pending national land use legislation.

The third approach to the development of a state land resource management system places the state in the central position of regulating land use. It differs from the second approach principally in the extension of statewide land use controls to all lands in the state, rather than to specific areas or types of development. In general, this approach relies more extensively on the use of permits and focuses more on regulation than on planning. While this approach would permit the State to meet its land resource management needs and to fulfill the requirements of the pending federal land use legislation, it is not likely to be politically palatable. This type of approach would encroach more on the traditional prerogatives of local government and private landowners than either of the other two approaches.

Role of Planning

The need for expanded participation by the state in land use planning and management comes from an increasing scarcity of land resources with particular characteristics of location and capabilities. The people of Texas have come to recognize the value of fragile and relatively scarce lands such as beaches, swamps, streams, some forests and other ecologically unique areas. Furthermore there is a growing awareness that individual communities cannot be expected to provide for the best interests of the State in planning and making decisions for resources which have state or area-wide significance. These changing values reflect a need for planning at the state and regional levels.

In a like manner many developments have side effects, or externalities, which go beyond the control of individual cities or counties. A new industrial complex may produce environmental, social and economic consequences over a broad region affecting many cities, counties and other governmental entities. State government is uniquely equipped to represent the interests of all affected Texans. Thus it is felt that the state should, in selected cases, establish goals and maintain standards for given areas and types of development.

The concept of a selective state role implies only a limited reallocation of decision-making between local and state government. It also implies only limited substitution of government planning and management for land uses otherwise determined by the market. This approach to land use planning and management is "management by exception." Direct state involvement in land use decisions would continue to be the exception rather than the norm. The vast majority of land use decisions by private owners and local regulatory bodies would not require any action by state government.

Present Land Use Controls

As a backdrop to a description of selective state land use planning and management,

the assumptions of the present system of local controls should be understood. These are:

1. The owner of the land is the primary decision maker for its uses. The owner has the power to use and develop his land as he wishes except as specifically restricted by state or local regulation.
2. The public interest of the state lies in authorizing local governments to con-





trol development decisions of landowners within the boundaries of the local government.

3. The state *enables* local action, it does *not mandate* local planning for land management nor does it maintain a *quality review* of local plans or of the conformity of actual development to such plans.
4. The *purposes* for which local action may be directed are the full inventory of constitutionally permissible purposes of government action — promotion of health, safety, morals and general welfare.

This set of assumptions has resulted in a system of management with three specific weaknesses from the state's perspective:

1. The existing system provides no way to rationally redraw local government boundaries to conform to the realities of growth and the impact areas of particular developments.
2. Heavy local dependence on the *ad valorem* property tax has compelled some communities to subordinate long-run regional land use goals to current fiscal pressures. This has meant exclusionary zoning in some instances and over-development of

scarce land resources in others.

3. Most units of local government are too small to support the technical staff and data collection efforts necessary for understanding and management of complex land use issues.

These specific weaknesses, coupled with the general problems of scarcity and externalities point up the inadequacies of the present land resource management system and emphasize the urgent need for strengthening the role of state government in land planning and management.

Requirements of a Viable Land Resource Management Process for Texas

To be both politically and technically effective, the state role must meet three objectives. First, it must *maximize public input*. This requires a broad representation of interests on goal setting and administrative bodies along with well-structured opportunities for all interested parties to make their concerns known. Second, any process must *meet federal requirements*. Third, the process must be able to *coordinate the necessary planning and regulatory activities* by the respective levels of government. This third objective can be better described as consisting of four tasks:

1. There must be a mechanism for articulating state land use goals and translating these goals into measureable performance standards.
2. There must be mechanisms for communicating the goals and standards of the state to encourage private decision-makers to accommodate these state goals where otherwise equal choices exist.
3. There must be a mechanism for formally resolving conflicts between state goals and competing interests.
4. There must be a mechanism for assembling and interpreting the data necessary to make decisions relating to standards and to the acceptability of individual development proposals.

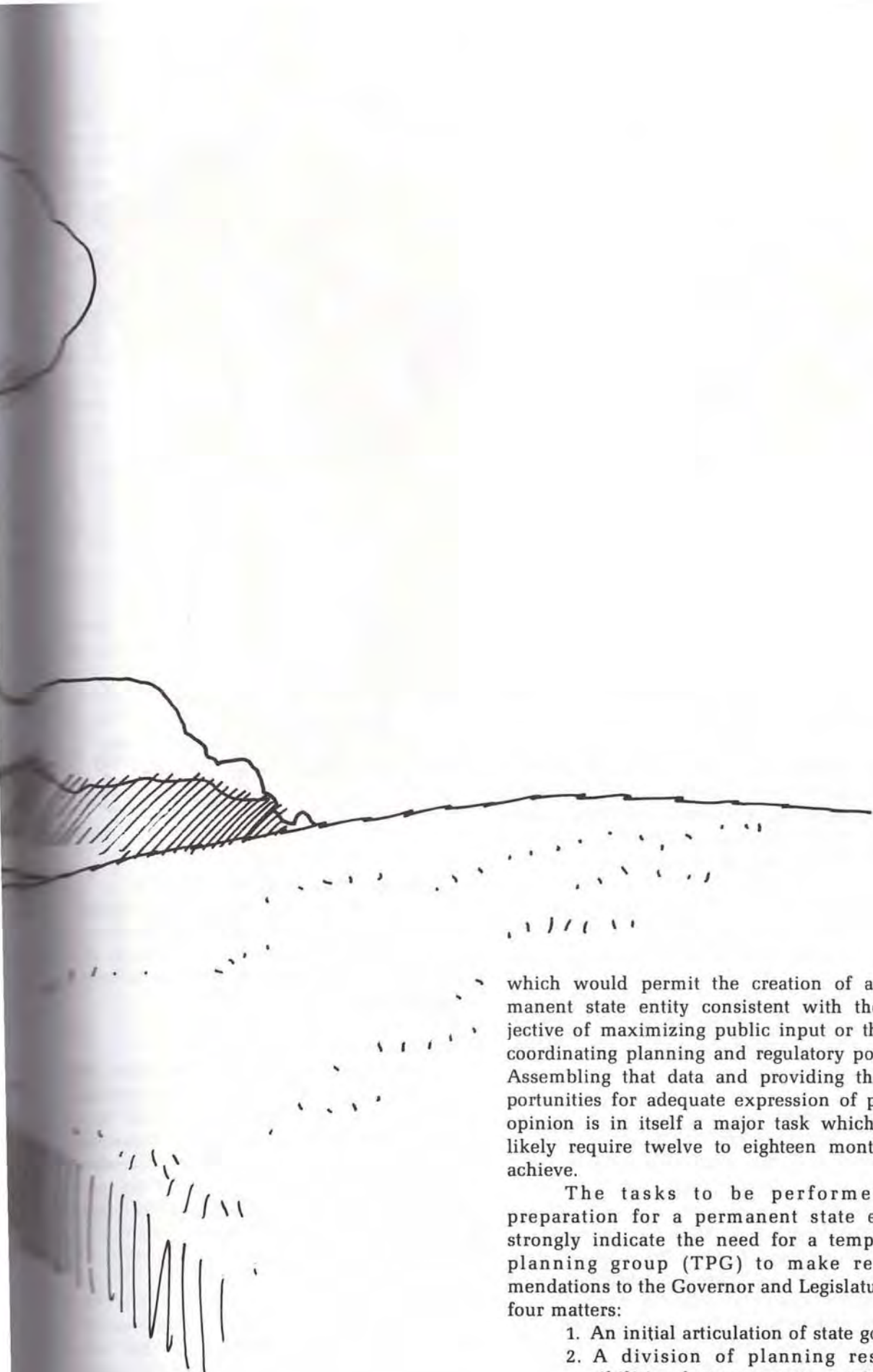
The balance of this section is devoted to setting out an approach through which a permanent state entity can be devised to meet these objectives and overcome the weaknesses of the present system of land use management.

The Role of the Temporary Planning Group (TPG)

Neither the technical data nor the evidence of public sentiment exists today







which would permit the creation of a permanent state entity consistent with the objective of maximizing public input or that of coordinating planning and regulatory powers. Assembling that data and providing the opportunities for adequate expression of public opinion is in itself a major task which may likely require twelve to eighteen months to achieve.

The tasks to be performed in preparation for a permanent state entity strongly indicate the need for a temporary planning group (TPG) to make recommendations to the Governor and Legislature on four matters:

1. An initial articulation of state goals.
2. A division of planning responsibilities between state, regional and local governments.

3. The design of a permanent state entity to carry out the state management role.
4. Changes in the procedures and powers of city and county governments necessary to facilitate implementation of the state's planning role.

In essence, the operational recommendation of this report is that TPG be formed and funded appropriately to carry out the mandate of designing a state role in land resource management consistent with present technological and political realities.

To produce the four categories of recommendations, TPG would be required to undertake several types of research and analysis. These are:

1. *Reviewing past state goal-setting procedures.* This review would include procedure, substance, and impact of efforts including Goals for Texas, The Report of the Texas Urban Development Commission, The Texas Coastal Management Program, Reports of the Texas Advisory Council on Intergovernmental Relations and others.
2. *Insuring public participation.* To be politically viable local governments, state agencies, property owners and other interest groups must be effectively represented in the formulation of recommendations. This can best be accomplished through public information programs, public hearings, and specialized briefings.
3. *Gathering input on distribution of powers.* Technical studies of organization and public input must be combined to insure decision-making is kept as close as possible to the local level, consistent with technical realities and pursuit of state goals.

TPG Data Needs

TPG would need data to perform three functions in formulating its detailed recommendations to the Governor and Legislature. First, it would be expected to *document the existence of various problems* and to verify its assertions on the need for state action. Second, TPG would be authorized to *resolve the conflicting assertions* of various parties over current conditions and the consequences of adopting various sets of goals. Third, in order to make its recommendations meaningful to laymen, TPG would need data to enable it to *produce examples* of area delineation, develop-



ment standards and proposal evaluation.

These data needs would not require TPG to engage in a major data collection effort. For the most part, data might come from interested groups and from existing governmental bodies.

TPG Staffing Requirements

TPG would, of political necessity, be composed of lay representatives of various land-using interests. Thus there would be a need for TPG to employ adequate professional staff to synthesize the data received, to analyze potential policy goals in terms of the performance standards needed for their implementation and to analyze the economic consequences of various actions.

TPG Organization

There are several alternatives for the organization of TPG. Because of the wide range of interests required, the best alternative appears to be a commission composed of a mixture of private interest groups, local

governments, state agencies, the Legislature and the Governor's Office. If the recommendations of this commission are to have a high probability of enactment as legislation, the mechanism for selecting the commission should be one which will secure the continuing interest and support of both the Legislature and the Governor.

An Agenda for the Design and Execution of Responsibilities for the Texas Entity for Land Management (TELM)

The most detailed recommendations produced by TPG will concern the design of the permanent state entity to carry out the state's role of greater participation in land resource management decision-making. Set forth immediately below is a proposed agenda for TPG in performing that task. The agenda is not an exact guide for a new state entity, but a list of functional responsibilities which must be met by any effective state program.

Assumptions Concerning the State Program

As already discussed, the proposed approach calls for a selective state role in land use planning and management. Before assuming new state responsibilities, several assumptions regarding the new or proposed program merit examination:

1. City Government — most land use decisions will continue to be made by cities. Major changes would probably include improving regulatory procedures and consolidating zoning and subdivision powers along the lines recommended by the American Law Institute and the Texas Advisory Commission on Intergovernmental Relations.
2. County Government — to eliminate the creation of incentives for sub-standard development in unincorporated areas, full zoning and subdivision powers should be given to counties.
3. Regional Councils — because of current structure they should continue to develop regional land use plans and to review and comment on planning and regulatory actions of the state and local participants.

The proposed approach assumes the direct state role will involve setting standards and regulating areas and development types of broad state concern. Any development in such categories would require a development permit before construction could commence. The state entity charged with evaluating proposals would also have authority to review



and alter categories and standards of regulation.

Functional Responsibilities of TELM

TELM must be able to fulfill three broad functional responsibilities. They are:

1. Articulation of interests.
2. Resolution of conflicts.
3. Legitimization of the planning process.

Articulation of interest involves translation of state land use goals into operational criteria and standards. As with the initial articulation by TPG, the work of TELM should involve both technical studies and public input.

Resolution of conflicts involves three technical capabilities. These are:

1. An ability to determine which specific tracts and developments fall within the scope of regulation.
2. An ability to evaluate development proposals and objections to them as to the accuracy and sufficiency of supporting data.
3. An ability to compare the conflicting contentions and predictions of the parties to a dispute so as to enable TELM to see the logical consequences of accepting certain combinations of contentions and predictions as a basis for a policy decision.

Finally, TELM must be able to legitimize the management process within the context of the Texas political tradition. This means the management process should possess the following attributes:

1. The management process should be

accountable to the interests it is intended to protect.

2. The balance of interests represented by TELM should change with sufficient moderation to allow developers to predict its policy decisions for their own planning purposes.
3. The procedures of TELM should be consistent with the concepts of due process and constitutionality to prevent frequent reversals of decisions by the courts.
4. Public involvement should be facilitated by:
 - a. Creating procedures to insure adequate opportunities for public input.
 - b. Conducting public information programs sufficient to inform all parties of these procedures.
 - c. Having TELM staff adopt a stance vis-a-vis the relative strength of competing interests which tends to bring out the full range of issues and considerations.

To carry out these functional responsibilities, TELM would need certain data. First, they would need extensive data on current conditions. For the most part, such data appear to be available from other units of government. However, TELM would be required to expend considerable effort and resources to put this data in a form which will allow projection of the consequences of various TELM actions and otherwise aid decision-making.

Coordination with other units of government

To be truly effective, TELM should have authority to coordinate other units of government as well as private interests. To the maximum extent possible, coordination would be accomplished by cooperation rather than sanctions. However, the ultimate determination of how well TELM cooperates with other agencies lies with the Governor and the Legislature. If the legislation which creates TELM seems to give TELM a strong mandate, other agencies will tend to cooperate. If the legislation is riddled with loopholes and exemptions, other agencies would see this as indicating a lack of legislative support. Such support, far more than any formal mechanisms for communications, will determine the amount of cooperation which takes place.

Requirements for Implementing a State Land Use Policy

Having set out mechanisms for designing a state land resource management policy and outlined the necessary attributes of the permanent entity necessary to execute the policy, this summary concludes with some recommendations concerning the implementation of such a policy.

First, enabling legislation should be amended to make city and county land use controls conform to the assumptions set out above.

Second, the public should be thoroughly informed to the need for a new state role in land use management in preparation for the creation of the TPG.

Finally, the legislature should be advised to (1) create TPG and (2) act on the recommendations of TPG to create a strong, permanent state entity to deal with Texas present and future land resource management needs.

An Informed Public

Land resource management is a relatively new field in many respects, at least in its State level implementation. Thus, from the very first, those interested in development of a statewide Texas Land Use Program must — through every form of communication available to them — attempt to turn public concern into active interest and support.

The Educational Process

It is of paramount importance that those who formulate the policy assure each citizen of Texas that a land resource management program is not, in itself, an instrument of change. It provides a mechanism for change that will be constructive and will safeguard our individual rights and ways of life.

A program of this nature has implications throughout the State and thus the "publics" to be reached by an information and education effort will express many and varied points of view.

Likewise, opposition, concern and misunderstanding of the exact nature of a land resource management program will come from many sources: rural and small urban areas; metropolitan complexes; industrial operations; governmental levels — state, regional, county and municipal; and special interest groups.

The most effective way to inform the citizenry and answer their questions is through their association with group interests, rather than through a too costly and impractical one-to-one basis.

This can best be accomplished through purposeful, well planned and continuing dissemination of land management materials in the news media — radio, television, newspaper and statewide periodicals.

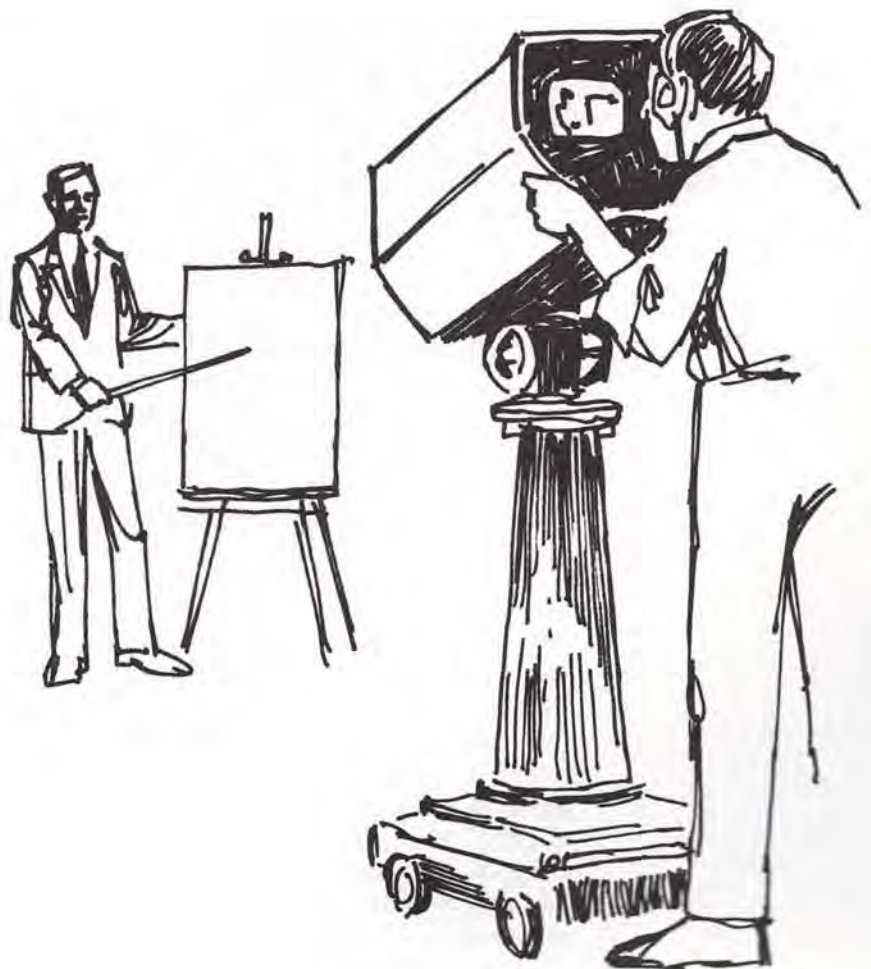
Assuming present growth and development trends continue, a better Texas land management system is essential. Yet, any significant change in existing or proposed programs faces four critical problem areas:

1. The "threat" of additional governmental control;
2. Dilution of existing groups' authority

to regulate and manage their own affairs;

3. Potential loss of economic activity;
4. Environmental concerns.

In neutralizing these four points of concern, land use proponents will need to overcome public attitudes which often exist toward such comprehensive programs. However, its comprehensive nature is its greatest asset.



Because this program will be applied throughout the State, it can succeed where fragmented planning has failed. A Texas land resource management plan will put into operation comprehensive development standards and control systems which permit economic growth while maintaining environmental safeguards.

More specifically, a Texas land resource management program is not a vehicle for additional governmental control. It is not an attempt to overregulate. A Texas land resource management program will insure that whatever changes are desirable in the State's land use system will be provided within the broad overview only possible at the State level.

A unified program will not take power away from individual entities, but in fact, lessen the current fragmentation of control. The policy is designed to strengthen and support existing programs, not to infringe upon their responsibilities.

One concept for achieving public acceptance of a land resource management program — urban or rural — should revolve around the premise that it not be restrictive of private rights or constitute any threat of taking property or rights without just compensation.

Also, the proper preservation of scenic areas, historical sites and development of natural recreational facilities can be maintained only if definitive steps are initiated very soon to preserve these areas from commercial encroachment and improper development.

Economic gain, not loss, should be stressed as an integral feature of a land resource management program, and the various "publics" involved should be given a clear and easily recognizable viewpoint on the economic facets of land resource management.

And last, only within the protective context of a unified land resource management program can Texans maintain the necessary balance between environmental protection and prospective development.

The most effective strategy in addressing these questions is, perhaps, the most simple: open and frank discussions which respond to the individual concerns of the "public."

By tailoring informational material to present the basic elements of the land resource program, explaining the role the "public" plays in land management, and showing how its adoption will have positive impact on them, the policy will rapidly gain statewide acceptance.

An approach of this nature requires extensive research, detailed data compilation and



expertise about the specific "publics." Its long range benefits to the success of the land resource management program should be weighed to its value as a public information and education tool.

Temporary Planning Group

Obviously, a "core" group of knowledgeable specialists in the land resource



management field must be created or brought together — very probably under the wing of the Governor's official family thus giving it inherent authority vested to the Governor as the State's Chief Planning Officer.

This core group, using the name "Temporary Planning Group," must assume, after being cleared for action by the Governor, the responsibility of establishing the milestones, stages and goals under which the implementation of a land resource management program can begin.

Once this step is taken, then the broad overview of public education on land resource management can begin to take shape, and the same concept can be brought forward with a really positive attitude.

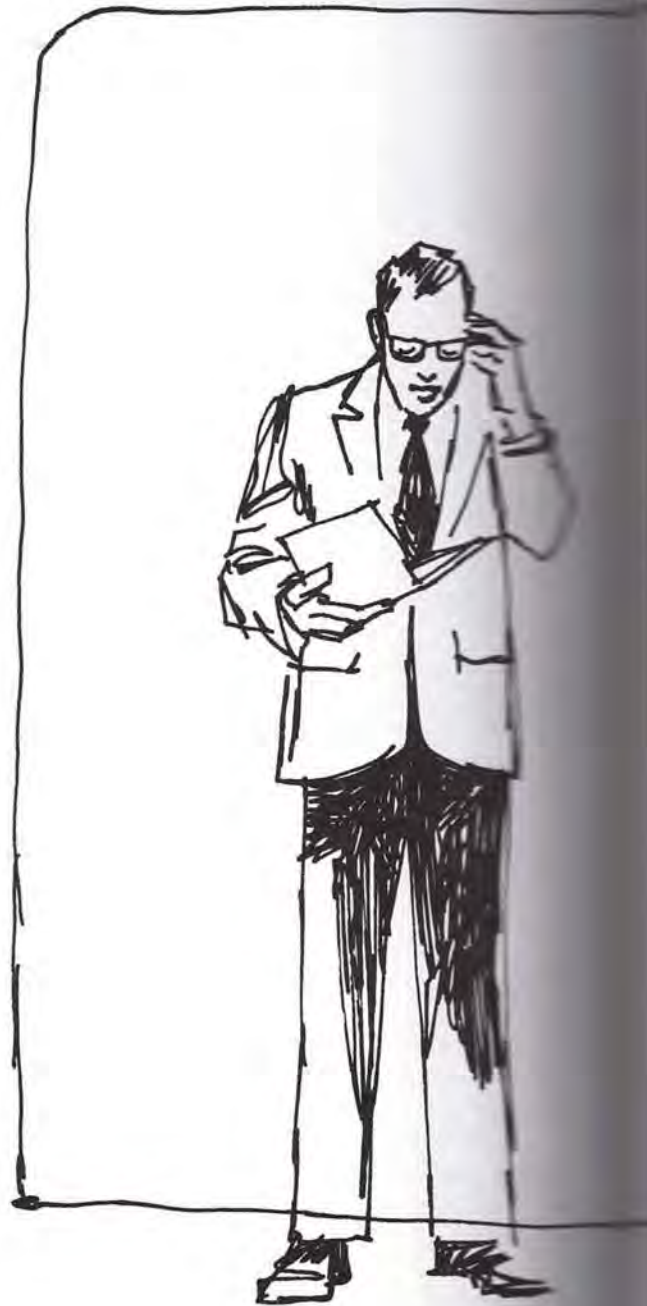
The forums to choose from are many. Immediate liaison work must be initiated with executives, policy leaders and opinion makers in all fields. Certainly, representatives of the Temporary Planning Group (TPG) and key members of the Governor's staff will meet

with State government and agency officials to explain the land management approach as it applies in Texas and to their offices.

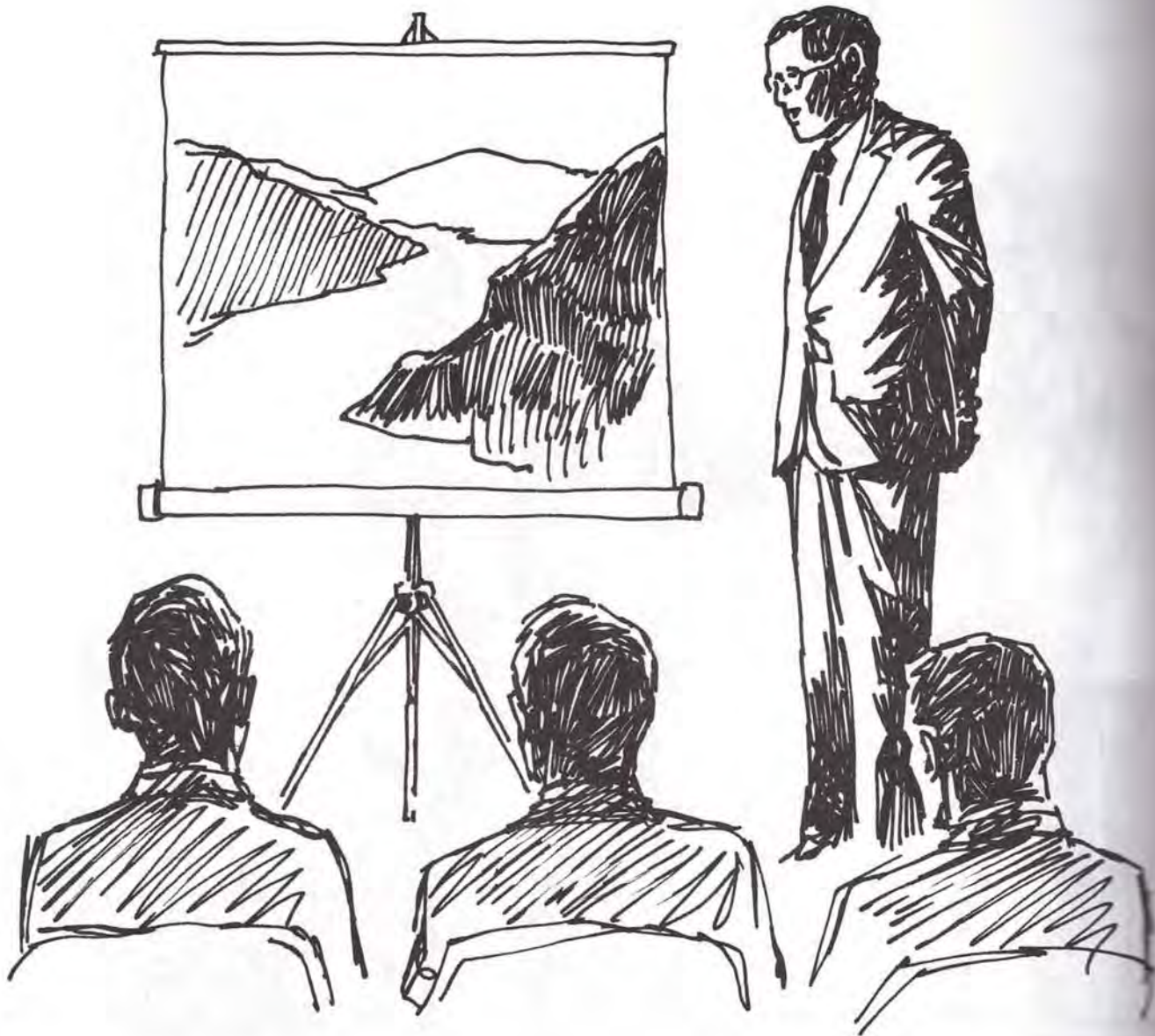
Regional councils, mayors, city managers, city officials, county judges, and special districts and authorities will need to be presented with customized information on the land resource management proposals as they relate to an area's geographic and demographic characteristics.

At the municipal and county levels, personalized briefings and meetings should be held by the TPG and the Governor's group aided by such organizations as the Texas Municipal League and the Texas Association of Counties to inform opinion leaders through audio-visual presentations, press kits and brochures.

The initial contact should be expanded through continuous specialized mailings reflecting positive attributes of the land







resource program its successful application in other areas of the nation, its applicability to the citizens of Texas and local governments in particular.

At the proper time, subsequent meetings should be called as the program matures and is refined to reflect current public opinion and new needs.

Each citizen of Texas will be represented at several levels of this information and education process. In addition to his "governmental" representation, he will, in all likelihood, be a member of a special interest

group.

Special Group Strategy

This informed public program attempts to isolate certain key interest groups which will be immediately interested in Texas land resource management.

One of the primary targets is, naturally, real estate builders and associated industries.

Cooperation between the Temporary Planning Group, governmental offices and leaders within this special interest group is essential to the successful implementation of

Program Milestones

the land resource management program. Under consideration is the creation of a policy-making council or an advisory board. Real estate developers and associated industry leaders should be invited to join and actively participate in information and idea exchanges on land resource management. This vehicle would be an appropriate forum for the industry to air its concerns about land resource management and to bring about a better understanding of the concept.

Environmental groups should also be asked to join in such a council or board where they too can voice their suggestions, opinions or reservations about the program.

In conjunction with this activity, it is recommended that work sessions and conferences be held with other special interest groups such as public utilities, the extraction industries, agricultural and conservation groups, the financial institutions and the academic community.

Additional contact can be made through trade journals, industrial publications and periodicals, newsletters and business reports.

TPG representatives and members of the Governor's staff should be available as program speakers to present the land resource management message to civic and professional clubs, organizations and special industry programs.

In each communication attempt, the goal is to achieve a "sense of understanding" of land resource management, the rationale which guides it, and the concepts it will implement.

First and foremost, the program must be kept before the public as it progresses.

With the support of the Governor and Legislature, the Temporary Planning Group will begin to write its legislative proposal and formulate its policy recommendations. After the approval and passage of the enabling legislation, the program will be supervised and operated by the Texas Entity for Land Management (TELM). The endorsement of an informed public is critical to the program throughout all of the stages of its growth — from its initial inception as the Land Resource Management Program to its enactment as a formal State policy.

Thus a constant and coordinated public information program to educate the public is vital to achieving a workable Texas land resource management program.

When the policy is modified and molded into its final form, it must reflect the wishes of the citizens of Texas. Only through a well developed and purposeful communications program can this be accomplished.

