

LAND USE: Resources and Issues

If Hollywood made a movie called "Land Use," the title would have the same number of words as "Star Wars," and many of the special effects would be the same.

"Land Use" or "Planning" or "Regulation" touches off an increasing volley of war words and conflicts and quiet questions. Land use issues have received considerable attention throughout the 1970's, at town halls, legislatures, agency offices, courts, and kitchen tables.

Many of the heated discussions about land use have resulted from a misunderstanding of definition, intent, effect, or applicability of a policy or a land-use change. Others have resulted because people have not heard of enough alternative solutions to land-use questions. These barriers to effective public and private decisions are precisely the need for and the value of conferences such as yours. You can help fashion laws and government programs that fairly blend private rights and responsibilities with public needs. As one symposium proceedings suggest, the land-use choices are tough in today's world. Land use is a changing and challenging area of law.

I am pleased to represent the U.S. Department of Agriculture in opening your discussions.

Material for speech by Norman A. Berg, Associate Administrator, USDA Soil Conservation Service, at the Alabama Land Use Planning and Regulations Conference, Tuscaloosa, Alabama, April 6, 1978.

I find it particularly interesting that your program recognizes land use as an environmental topic and as one that relates closely to rural development and to energy concerns.

This year USDA has held four regional workshops for its key field employees, and will complete the fifth session next week. The topics have been Land Use, Rural Development, and Energy. The more than 600 USDA leaders who have discussed these issues have gained--perhaps for the first time--an inkling of how policies on these topics are interrelated, and where they often have been in conflict. I am glad that you, too, are considering these topics together. They need complementary programs if the aims of each are to be met.

USDA recognizes that by far the majority of choices in the use of America's land resource are private, local choices--and we would just as soon they stay that way.

We do have three concerns, and one role of increasing advocacy.

First, local people and their government units and their private businesses make land use decisions every day. Those decisions are more likely to be good ones or successful ones if the local people realize all the implications of their actions--the resources involved, the people affected, the economic and social costs, the alternatives.

USDA has an assigned responsibility to provide information on the use and care of land and water resources, in understandable language.

Our first aim in the workshops and in our daily public information efforts is to provide that information to more people, so that more local decisions are made by the informed rather than the uninformed...

so that more decisions are made by intent rather than by default.

If a community doesn't want to deal with land-use questions with help from USDA or anyone else, it doesn't ^{have} ~~ave~~ to. But that community ought to recognize that if it doesn't choose its own growth patterns that doesn't mean that no growth patterns are being chosen. A community that does not face the issues and make the choices may leave it to the "cut-and-run" builder to decide how and where a community will expand. Once a leapfrog subdivision is in place, the builder may be gone. Other people are left to demand or provide community services and solve problems, and to pay the increased tax bills for those services.

USDA's second concern is that our assistance programs to landowners and communities be more consistent--that USDA speak with one voice, and that all Federal programs blend a little better in their handling of assistance programs that affect land use. We can't blame the developer for everything: One agency may help a community plan the kind of growth it wants and then a highway or a water-and-sewer system goes in and forces growth in another direction. In the future all Federal agencies will be looking at the land-use impacts of their investment decisions.

USDA's third concern is that Federal agencies manage their own property in ways that set a good example in resource use and protection and that do not unfairly infringe on the use of adjacent land owned by citizens or local governments. The Forest Service, for example, administers almost 1 of every 10 acres in the United States, in National Forests and National Grasslands. Its decisions affect the future of thousands of communities and millions of citizens.

USDA's role as an advocate is in helping people who want to remain farmers and ranchers stay in agriculture, particularly on what we term "prime farmland." There is a 10-minute definition of prime farmland, but basically it is the land on which Americans can grow the most with the least--the most food and fiber with the least cost in energy, soil erosion, other environmental risks.

It makes no sense to pave over our best land resource. America has a large share of the world's prime farmland--but it is a finite resource. A million acres of it are being lost to urban or water uses every year. That concerns USDA deeply in its mission of sustaining strong agricultural productivity for today's and tomorrow's domestic and worldwide markets. As Secretary Bergland said recently, America has had a "flatlands era" long enough. We began settling flat areas near harbors. We expanded onto other nearby flatlands, taking them permanently out of agriculture. We need a new strategy.

We don't need to take more acres of prime farmland for urban uses. There are enough acres already within America's urban areas that can be developed. We could meet the needs of the millions of people expected in the next 75 years without pushing out our city perimeters at all--by developing good-quality available land within present community borders.

Prime farmland preservation also protects the farmer from the harassment he might experience when people start building around him. Farming has many shared characteristics with industry--trucks and other machinery moving back and forth with raw materials or finished goods... unsettling noises and smells. New children in the neighborhood sometimes damage farm property or crops.

Prime farmland preservation also reduces the need for plowing up poor farmland, wetlands, forests and rangelands to meet food and fiber demands.

The Council on Environmental Quality has asked every Federal agency to consider the effects of its individual projects or programs on prime farmland. USDA has done a number of studies to inventory prime, unique, and other important farmlands.

In the face of these facts, it would make little sense for all kinds of Federal investments to finance the disappearance of good farmland. Federal programs need to be run in a way that prime lands are converted to other uses only when there are no suitable alternative sites and when the actions are in response to overriding public need.

Most States have adopted some way of encouraging the retention of prime agricultural land. Forty-two States have some form of differential tax rate for farmers. Their provisions vary widely. The farmer does deserve a tax break of some kind--but you need something else for any long-term effect on land use patterns. Agricultural zoning has been tried in a few States. Agricultural districts still are only a temporary device--farmers can get out of them any time they want. Wisconsin has enacted a law providing an adjustment in State income taxes, and that shows some promise. The farmer makes less use of several of the community services that typically are supported by property taxes, so it makes sense to deemphasize the role of the property tax in local revenues.

Other States are trying various systems for buying or transferring development rights on farmland. Most counties will not have the money to purchase farmland or development rights on farmland, so most will have to turn to some other mechanism.

Some financial support may become available to counties and States that are trying to guide land use, manage growth, and protect valuable farmland. In recent Congressional hearings on an Agricultural Land Policy Act sponsored by Representative Jeffords of Vermont and others, many counties and State agencies testified on the need for support. A later substitute bill by Mr. Jeffords has been reported out of subcommittee. It would set up a study commission to review and compare what States are trying in land use programs.

Several pieces of legislation that have been enacted during the 1970's will affect local land-use choices:

--The Clean Water Act of 1977, calling for the control of water pollution from diffuse sources such as agriculture. It provides technical help and cost-sharing through USDA's Rural Clean Water Program, to treat the most seriously eroding areas identified under Section 208 water quality management plans.

--The Soil and Water Resources Conservation Act of 1977, which requires USDA to appraise the condition and quality of America's soil, water, and related resources; develop a 5-year program for soil and water conservation based on the appraisal; evaluate yearly our progress and effectiveness in the program; and encourage strong public participation at each step. SCS has the primary role for RCA.

--The Resources Planning Act administered by the Forest Service, which calls for a similar appraisal and program on forests and rangelands. It has a similar directive on increasing the use of public ideas in designing programs.

--The Coastal Zone Management Act that you will be discussing tomorrow.

--The Surface Mining Control and Reclamation Act of 1977, which will help not only in healing the scars of past surface mining, but also will see to it that new mining is done in a more environmentally acceptable way. Where prime agricultural land would be affected by new mining, and the decision is still to go ahead, SCS would help devise special precautions so the land could be returned to its original productivity.

--Five Executive Orders signed by President Carter last year, on protection of wetlands, floodplain management, exotic plants and animals use of off-road vehicles on public lands, and improvements in environmental impact statements. Under these Executive Orders a number of agencies already have altered their programs to improve their environmental responsiveness.

The laws and Executive Orders are aimed at encouraging Federal and State governments, private industry, and communities to consider a fuller range of alternatives and to hear from more segments of society that have a stake in any land use decision.

Whenever you open the door for wider points of view, you begin to encroach to some degree on a landowner's rights--what you will discuss tomorrow as "The Taking Issue." This is the basic legal issue in the

area of land use. It is a legitimate concern for private property owners, and it is necessarily present in any attempt to conserve some of America's better cropland.

Historically, land ownership meant that a man could do anything he chose with his land, so long as he did no harm to his neighbor. The problem today is that there are more neighbors, they are closer, and they have a far greater variety of social goals--many of them conflicting.

Today's "taking issue" involves questions of property rights and duties and proper compensation--of police power versus eminent domain. A variety of State programs have been tested in the courts, and the result is perhaps more of a "yo-yo" issue--upheld, struck down...upheld, struck down. The outlook may be that the courts will go along with any "reasonable" land-use regulation to meet environment or social goals. Your help as well as the opinions of landowners and other citizens will be needed to determine what constitutes a "reasonable" land use regulation.

The fact that new approaches to land use are being tried in so many States indicates a certain degree of failure in the past to achieve compromise on a strictly voluntary basis. Social needs obviously are going to be met, either through voluntarism or legislation. This is an area where you can provide valuable inputs.

I believe that we can inform, educate, and involve people...we can make them aware of their needs, problems, opportunities, and choices... we can provide them with more chances to make intelligent decisions... and we can help them follow through on their choices.

I believe that we can help design new programs and demonstrate that they work...help people improve land use without drowning everyone involved in a sea of red tape...balance private rights with public interests so that each achieves some aims.

The topics you will be discussing tonight and tomorrow are vital ones for the future of America. I urge you to listen carefully...to sort them out...to talk them over...to determine what can work in Alabama...and to help it work.

America needs land-use programs that are built at or from the local level and that are judicially acceptable, socially productive, and environmentally sound.

Nothing you will learn at this conference will convert tough choices into easy ones. Yet you can help see to it that those choices are manageable ones.

Thank you.

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