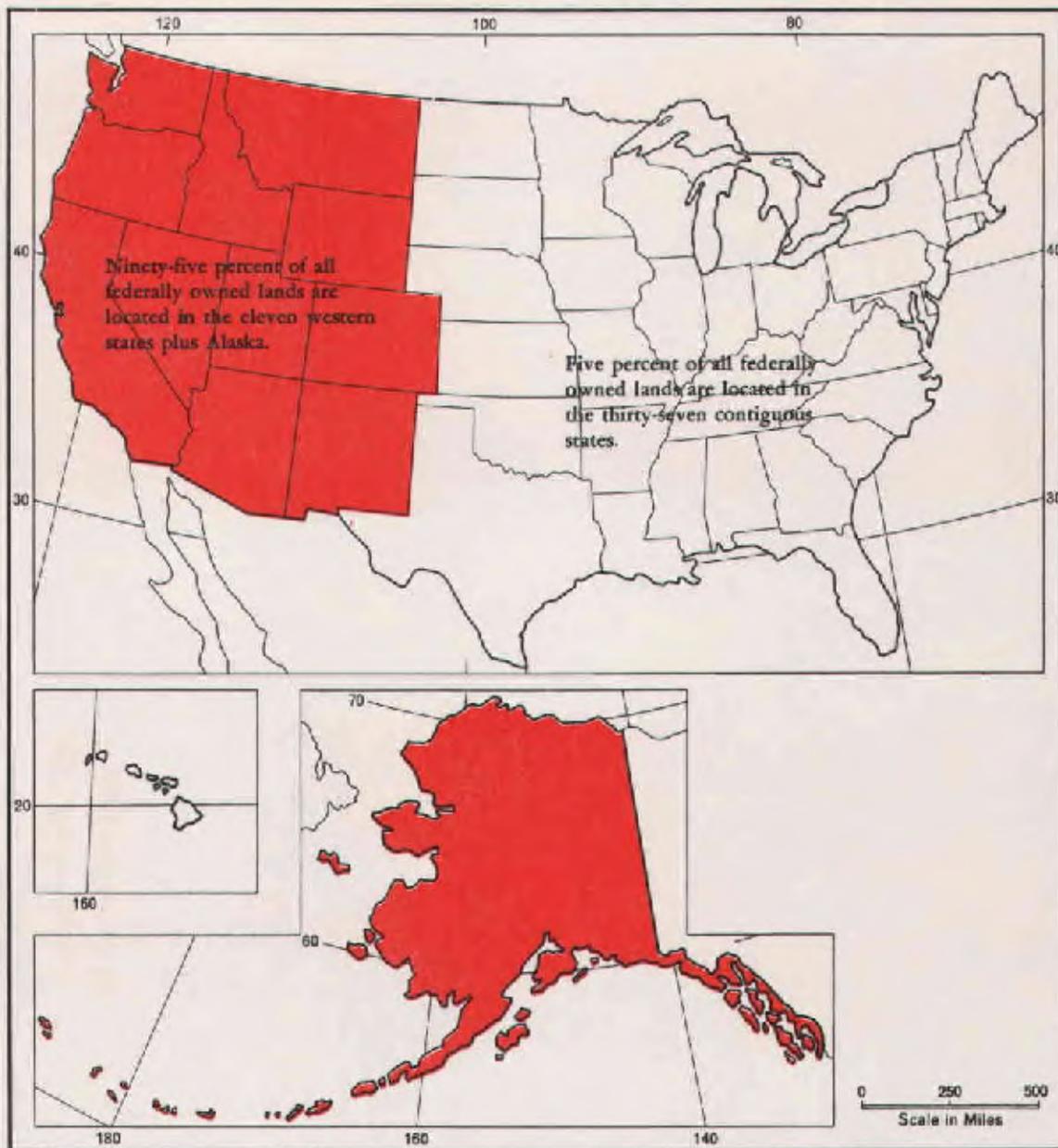




Planning Future Land Use



The Public Land Law Commission Report and Its Importance to Oregon

Cooperative Extension Service • Oregon State University, Corvallis

*Agricultural Experiment Sta.
(Special Report)*

PREFACE

This informational paper is one of a series of papers which is a follow-up to "The Public Land Law Review Commission Report and Its Importance to Oregon," Special Report 328, June, 1971. The Public Land Law Review Commission was established in September, 1964, to make recommendations to the President and Congress concerning administrative and legislative actions dealing with retention, management, or disposition of federally owned lands. The Commission published its report, "One Third of Our Nation's Land," in June, 1970.

BACKGROUND

Presently, all counties in Oregon are involved in resource planning of private lands. Several have completed comprehensive land use plans and adopted county-wide ordinances. Local governments have been responsive to the increased development within the counties and sense the need for guidance in human resource development, natural resource development, and economic development. Effective management of private lands will increase the quality of environment and increase economic opportunity for the state's citizenry.

Public land management has not received this deserved attention in prior years. In June of 1970, the Public Land Law Review Commission issued a report, "One Third of the Nation's Land." Within the report a section entitled "Planning Future Public Land Use" is designed to deal with the management of the nation's public lands. The Commission suggests that complete cooperation between Congress, with its constitutional responsibility for public lands, and the executive branch, through which plans are implemented, should be exercised. Land use management of specific public holdings is determined by the translation of congressional policies and programs.

Because of the "myth of superabundance," the nation has been able to afford the luxury of an unplanned, crisis-oriented land use policy. However, it is now realized that to insure lasting environmental quality, planning must be done at the national, regional, and local levels. The use of public lands must be coordinated with that of private land holdings. One cannot function effectively without the integration of the other. As stated in the Commission Report, "Our interest focuses on planning land uses at the regional and local levels because the effects of public land programs are felt most strongly there. And it is at those levels that the Commission noted the greatest public concern with the manner in which public land programs are being implemented."

Since there is a large amount of public lands in Oregon (52 percent), the citizenry must be aware of the implications and impacts that could result from policy changes in public land management. It is apparent that the Commission was not satisfied with present land use practices used in guiding development of public lands. "... the creation of this Commission and that which emerged from our study program have their roots in an inadequate planning process." The Commission also believes that "the roles of both Congress and the administrative agencies must be more clearly defined so that the limits of the discretionary powers are understood by the administrators and the public."

The potential usage of an area's resources may change with time and development and therefore a flexible land use policy is important. Whether the concept of dominant or multiple use is more flexible is difficult to establish. The important point is that decisions should be based on the ecology, time, place, suitability, and circumstances of people's needs.

To insure the greatest public benefit, non-monetary factors should be included, such as environmental, ecological, and public conservation values.

As the result of the study, recommendations were developed by the Commission in hopes of establishing more desirable management practices in administering public lands. The rest of this paper will be devoted to examining these recommendations.

RECOMMENDATIONS OF COMMISSION

Goals for Public Land Use Planning

Goals should be established by statute for a continuing dynamic program of land use planning. These should include:

Use of all public lands in a manner that will result in the maximum net public benefit.

Disposal of those lands identified in land use plans as being able to maximize net public benefit only if they are transferred to private or state or local government ownership, as specified in other Commission recommendations.

Management of primary use lands for secondary uses where they are compatible with the primary purpose for which the lands were designated.

Management of all lands not having a statutory primary use for such uses as they are capable of sustaining.

Disposition or retention and management of public lands in a manner that complements uses and patterns of use on other ownership in the locality and the region.

This particular recommendation summarizes many of the recommendations within the report "One Third of the Nations Land." The Commission believes that when these recommendations are implemented, they will "provide the public land management agencies with a sense of direction now lacking in their planning efforts."

Throughout the Commissions deliberations, complaints were voiced on problems concerning withdrawals and reservations of public domain lands. Even though the establishment of certain acts (Taylor Grazing Act, 1960, and 1964 Acts for National forests and BLM administered land) provided features for broad public land management, the Commission found they failed "... to specify or provide standards for determining priorities of use or guidelines for resolving conflicts." They did, however, provide a starting point.

In any phase of land use planning, non-monetary values should be considered when categorizing primary and secondary land uses. The interaction between commodity users and the non-consumptive users and also between other non-consumptive users is indicative of many of our land use conflicts today.

Land Use Plans

Public land agencies should be required to plan land uses to obtain the greatest net public benefit. Congress should specify the factors to be considered by the agencies in making these determinations, and an analytical system should be developed for their application.

State and Local Roles

State and local governments should be given an effective role in Federal agency land use planning. Federal land use plans should be developed in consultation with these governments, circulated to them for comments, and should conform to state or local zoning to the maximum extent feasible. As a general rule, no use of public land should be permitted which is prohibited by state or local zoning.

Congress, assisted by professionals, should provide an analytical system to be used in evaluating our land resources. These resources represent several and varied ecosystems, each of which should be evaluated with the utmost accuracy and precision possible, according to the level of planning required. This evaluation may tend to differ somewhat from the regional, state, and local levels. This may not be accomplished unless state and local planning groups exert joint efforts with federal agencies. The Commission states that "... broad gauged land use planning at all levels is vital if our nation is to meet the challenge of the next three decades to meet our increasing resource and environmental needs from a fixed land base." To assist this process the Commission calls for federal agencies submitting their plans to state and/or local agencies.

It seems that little indication is given of a need for an educational program to keep the affected public aware of what is going on. This is particularly essential when various interests are involved. Part of this needed educational program is a feedback system by which the public and public officials arrive at informed decision making.

Disposals

Public lands should be classified for transfer from federal ownership when maximum net public benefits would be assured by disposal.

The Commission approached this problem from the standpoint of asking the question: What lands should be retained for highest public benefit? The Commission agreed that wholesale disposal of unappropriated public domain was not warranted. Rather, "we determined that our recommendations for disposal would be on a selective basis, keyed to the highest and best use of the lands and the private or state and local governmental need for them." The problem of establishing criteria for determining the "highest" and "best" use, however, is of mammoth proportion. What is best for one group of users may be exactly contrary to other groups. Those charged with classifying public domain land for either retention or disposal should undertake considerable study before committance of this land. A systematic analysis and public hearings should be included as a part of this determination.

Management

Management of public lands should recognize the highest and best use of particular areas of land as dominant over other authorized uses.

As stated in the introduction, dominant versus multiple use techniques are two items receiving considerable attention in the text of the Commission's report. It is possible that a fine distinction (as stated in the Commission's report) cannot be drawn between the two. For example, the Commission believes that "as to lands set aside for primary uses, Congress should direct the agencies to manage them for secondary uses that are compatible with the primary purpose." Dominant use is a tool by which some kinds of land may be preserved and special objectives achieved. Multiple Use Acts of 1960 and 1964 provide that the Forest Service and Bureau of Land Management examine and permit any and all number of uses.

The objective of land management should be to integrate uses for optimum production and benefits from any given parcel of land, realizing that not all lands are suited for all uses, and that the usage of an area's resources may change with time and development. The point is that land management concepts must be flexible—allowing for changing needs. Decisions on how to manage a particular section of land therefore should be based on the ecology, time, place, suitability, and circumstances of people's needs.

The Commission was emphatic about Congress alone establishing the dominant use zones. Rather ". . . establishment of these zones on the ground is to be a function of the administrative agencies, arrived at through the improved comprehensive land use planning process. . . . However, we do believe that legislative endorsement of this technique is necessary to make it fully effective." Also, the Commission believes that not all public domain lands require being placed in one dominant zone or another. It should be established that those areas placed under a dominant use have an identifiable highest primary use.

Comprehensive Land Use Plans

All public land agencies should be required to formulate long-range, comprehensive land use plans for each state or region, relating such plans not only to internal agency programs but also to land use plans and attendant management programs of other agencies. Specific findings should be provided in their plans, indicating how various factors were taken into account.

Public Participation

Provision should be made for public participation in land use planning, including public hearings on proposed federal land use plans, as an initial step in a regional coordination process.

Federal Interagency Coordination

Land use planning among federal agencies should be systematically coordinated.

Financial Assistance to States

Congress should provide additional financial assistance to public land states to facilitate better and more comprehensive land use planning.

Regional Commissions

Comprehensive land use planning should be encouraged through regional commissions along the lines of the river basin commissions created under the Water Resources Planning Act of 1965. Such commissions should come into existence only with the consent of the states involved, with regional coordination being initiated when possible within the context of existing state and local political boundaries.

There has been some, but nearly enough, coordination between local land use plans and federal land use plans. To assist in this task, initiation of the "Public Participation" recommendation is of primary importance.

A factor that, in some cases, has contributed to successful development of state, local, and private lands is one of community participation and interaction. Federal and state agencies (Housing and Urban Development, 701 funds, etc.) have supplied personnel, grants and loans to communities that want to develop comprehensive plans but do not have the resources to accomplish this. This has induced local government to expand land use planning practices.

To assist agencies in managing public domain lands, the Commission calls for financial assistance provided by Congress. Programs involving interagency land use plans will contribute to needed coordination in addition to providing Oregon citizens with a balanced, more satisfying long range land use plan of federal holdings.

Review of Withdrawals and Classifications

As an essential first step to the planning system we recommend Congress should provide for a careful review of (1) all Executive withdrawals and reservations, and (2) BLM retention and disposal classification under the Classification and Multiple Use Act of 1964.

Review Program

Congress should establish a formal program by which withdrawals would be periodically reviewed and either rejustified or modified.

The "review" of all withdrawals is proposed by the Commission as the first step in the planning process. As stated by the Commission ". . . classifications were not preceded by necessary comprehensive efforts to gather information pertinent to resources capabilities and future development probabilities or by systematic attempts to state alternative uses within the context of regional or state development goals." It is recommended that in order to justify the continuance of each withdrawal, a report be submitted to Congress of the findings made by the reviewing agency.

Classification of National Forest and BLM Lands

Congress should provide authority to classify national forest and Bureau of Land Management lands, including the authority to suspend or limit the operation of any public land laws in specified areas. Withdrawal authority should no longer be used for such purpose.

The Commission found that existing land use classifications abound with confusion because of withdrawal procedures. These procedures have not only confounded management, but also tend to classify land for specific objectives. To clarify this complex and confusing array of planning tools, the Commission believes ". . . the Forest Service and the BLM will need an effective classification authority." This temporary authority of land classification, preceded by adequate planning, could be used to classify lands for disposal or retention. This is especially applicable to states like Oregon which have large amounts of federal land. With proper classification based upon ecological principles, land use planning could proceed in a logical manner.

Future Withdrawals Policy

Large scale limited or single use withdrawals of a permanent or indefinite term should be accomplished only by Act of Con-

gress. All other withdrawal authority should be expressly delegated with statutory guidelines to insure proper justification for proposed withdrawals, provide for public participation in their consideration and establish criteria for Executive action.

Executive Withdrawal Authority

All Executive withdrawal authority, without limitation, should be delegated to the Secretary of the Interior, subject to the continuing limitation of existing law that the Secretary cannot redelegate to anyone other than an official of the Department appointed by the President, thereby making the exercise of this authority wholly independent of public land management operating agency heads.

Land withdrawal should be based upon the value of the service and/or benefits derived from such actions. Significant withdrawals out of a region necessitates careful land use planning. Therefore, Congress, before initiating withdrawal proceedings, should involve the citizenry and all levels of government.

CONCLUSION

It takes a lot of effort, understanding, and coordination to develop a master plan for resource management and development. If inventories used for making interpretations and decisions are ecologically sound, however, they become foundations upon which all users can build. This eliminates single-purpose inventories and duplication of effort. Also, as new technology becomes available, it can be used to update or more effectively use data already collected. Many of the problems which led to the creation of the Public Land Law Review Commission resulted from the lack of regional and local participation in decisions that have had great impacts upon regional and local economics.

Whatever the goals for the future, be it to maintain environmental quality, provide adequate recreational opportunities, or strengthen rural communities, there should be coordination in the development and management of any parcel of land.

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