

LAND USE AND LANDSCAPES: THE FUTURE
OF ALASKA LAND USE CONTROL

by

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The study which follows is of more than academic significance. The issues and concerns which are addressed hold implications for all that I cherish; my family and friends, the "Great Land" of Alaska, and the United States. The ways in which Alaska's beauties and treasures are used in the years ahead will have profound effects upon each of these cherished aspects of my life. Consequently, I have approached the challenge of outlining a state land use program for Alaska with a sense of conviction and optimism. I remain hopeful that the future of Alaska, generally, and with regard to land use, will justify such optimism.

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Chapter I

INTRODUCTION

LAND AS AN ECONOMIC CONCEPT

The history of land use and land use control in the United States is a history of economics. The English concept of private land ownership or "freehold," largely attributable to the Magna Carta and Common Law interpretation, found its way into the earliest land dealings in the Colonies and eventually into the Constitution itself. The mercantile philosophies of the eighteenth century were quite naturally applied to land, just as to timber, iron ore, tobacco, cotton and other commodities of the colonial system. The right to profit from the use or sale of land was interwoven in the fabric of democracy, as was the notion that such use or sale should be virtually unrestricted. Adding to the fervency of the belief in the right of private land ownership in the American context was the vastness and "inexhaustability" of available land. The colonies were an economic venture intended to exploit the vast and inexhaustable resources of the new world, and there was little reason to exclude the land itself from such exploitation.

Following the Revolutionary War, the new federal government was faced squarely with the issue of land ownership rights. As a result of the war, the new nation had acquired an expansive public domain, and for the first time, major public policies had to be formulated to address public land ownership and control. Having broken the economic hold of the Mother Country, the nation was intent on retaining, and if possible, bolstering the sanctity of private property as it prepared for

a new era of economic growth. Indeed, many argued that the right to property was largely what the Revolutionary War was all about--the role of the new government, it was contended, was to secure and protect such rights. Such arguments against government interference in land ownership were also the basis for arguments against the retention of a large public domain. As the federal government acquired more land through purchase or cession--some two billion acres between 1782 and 1867¹--the land control issues continued to broaden, and the ownership debate intensified.

WESTWARD EXPANSION

The pressure for westward expansion operated to create a public land policy--or non-policy, as the case may be--to deal with the public domain. Aside from a feeble attempt to allow the federal government to add to the national treasury by selling lands under the Northwest Ordinance of 1785, the national policy became one of disposal.

Gradually, the concept that the new lands should be sold for the benefit of the public treasury diminished, resulting in land being virtually given away with only weak provisions to ensure permanent settlement by the purchaser. By 1864, six major land acts had been passed; each succeeding act making the terms of purchase more attractive to the settler and speculator. . . . The purpose of these acts was to provide for the orderly settlement of the West. However, land speculators often abused the laws and perpetuated the impression that land was a speculative commodity.²

However, land speculation and the quest for cheap land were but two facets of an evolving land ethic. Timber, coal, furs, gold, oil,

anything in or on the land attracted more and more settlers westward. Soon there were railroad towns, cattle towns, mining towns, "boom" towns of every size and variety. And just as soon, the land was parcelled and re-parcelled, sold and re-sold. Gridiron patterns were laid down, and local booster associations encouraged all to purchase their slice of what would be called "The American Dream." For the right price, anyone could become a part of the landed gentry. Eventually, the attachment to property would become more than a legal or political concept, but a psychological concept as well. To most citizens, "property ownership was perceived as a means through which individual liberty could be secured."³

THE FORCES OF URBANIZATION

Just as the forces of westward expansion were adding to the nation's land ethic, the forces of urbanization were tempering the land value concepts of nineteenth century America. As major cities of the East and West began to grow, the importance of land as a commodity was magnified. The twin pressures of industrialization and population growth gave new meaning to the economic underpinnings of private property rights. In the urban context at least, the supply of land was not inexhaustable, and local government had a significant role to play in protecting and enhancing the land owner's right to profit. Initially, local government was expected to provide streets, police protection and, in some instances, water and sewer--the early "police power" functions designed to protect citizens in the "safe and reasonable" enjoyment of

their property. Eventually, however, local government became a principal in the creation of a fully-flowered American land ethic based upon the free market (*laissez faire*) economy.

Land use control at the local level was not a product of the new world. For centuries before the American Revolution, English common law had recognized "the individual's duty not to interfere substantially with his neighbor" as a principal governing the use of land. Such recognition was the beginning of the doctrine of nuisance which, though variously defined, is a legal acceptance of the belief that:

The occupancy of neighboring tracts of land by different individuals gives rise to probable conflicts of interests between them, and the interest of each must be reasonably limited so that the interest of the other may have reasonable play.⁴

The underlying benefit of such a doctrine is that any "reasonable limitation" which protects the aesthetic or intrinsic value of property also protects its economic value. Hence, with the close patterns of development attendant to urbanization, came the need to invoke reasonable limits upon property owners. Initially, this took the form of nuisance laws and common law judgments. In time, however, a more effective mechanism was required.

THE CONCEPT OF ZONING

By the beginning of the twentieth century, a number of large cities had recognized the need to separate certain land uses in order to avoid conflicts and to protect the integrity of living and working spaces. The idea was to create "zones" which allowed certain uses and

restricted or prohibited others; hence, the term "zoning" was applied to a new mechanism for reasonable limitation of property rights.

Although largely based upon nuisance law, zoning became a larger and more comprehensive exercise of the police power which, in most cases, was a delegation of state authority to municipalities through enabling legislation. In the landmark Supreme Court decision which upheld the constitutionality of zoning (Euclid v Ambler Realty Co., 272 U.S.

365) Justice William Douglas reviewed the need for zoning restrictions:

Until recent years, urban life was comparatively simple; but with the great increase and concentration of population, problems have developed, and constantly are developing, which require, and will continue to require, additional restrictions in respect of the use and occupation of private lands in urban communities. . . . The segregation of residential, business and industrial buildings will make it easier to provide fire apparatus suitable for the character and intensity of the development in each section; it will increase the safety and security of home life; greatly tend to prevent street accidents, (and) preserve a more favorable environment in which to rear children, etc.⁵

The pattern of land use control created by modern zoning laws--i.e., delegation of the police power of the state to municipalities, to provide for community health, safety and welfare--exists largely today as it did a few years after the Euclid decision. The mechanics of zoning administration have changed substantially, but the end result is principally the same. The neighborhoods and communities of America have applied zoning to protect the "character" of the area and not, incidently, to preserve and enhance property values. Here again, the land-as-commodity philosophy became the driving force of land use control, and what was originally seen as a limitation on property rights became what Robert H. Nelson has called a "collective property right:"

While community zoning powers are not as total or as discretionary as are the ordinary rights of private-property ownership, they constitute in essence--as neighborhood zoning does also--a collective property right to the community environment and to its public services. . . . Zoning gives community residents the authority to limit entry to the types of people they want. . . . Zoning that regulates minimum lot size, floor space, and other quality standards sets a fee (property-tax payment) for use of the community's environment and services.⁶

COLLECTIVE EXERCISE OF CORPORATE PROPERTY RIGHTS

Obviously, the effects of zoning and collective property rights have reached well beyond the local neighborhood or community. While residential property values were being protected through localized land use controls, economic forces were operating with equal force upon other land uses. The unbridled exploitation of natural resources spurred by advancing technology, the post World War II suburbanization process, and advanced capitalism, combined to create a corporate collective property right. In essence, Americans had defined a standard of living--a collective life style--which dictated an intensive use of the land and its resources. The affiliation of land with the American Dream was greatly strengthened by the economic forces attendant to that life-style. The maintenance of an expanding economy was accomplished largely through the collective exercise of corporate property rights--that is, much of the public value in land and resources was given up in order to secure the world's highest standard of living.

During the period just after World War II, the gap between the public welfare and individual property rights began to widen, and the

American land ethic, formulated over three centuries of private land ownership, began to fray around the edges. The widening of the gap has continued, and "the concept of the general welfare, or the public interest, expressing shared or communal values has been distorted by its continued identification with the private interests of property holders."⁷ Yet, evidence is being offered that this distortion, and indeed, our land ethic, is changing. David Ervin, et al. maintain that:

Land use and associated property rights provide an excellent example of changes in values, norms, rights and policy. The impetus for these changes comes from the increasing value to some citizens of environmental goods such as clean air and water, the preservation of open space and wilderness, and the maintaining of agricultural lands.⁸

In a more direct fashion, Fred Bosselman concludes:

If one were to pinpoint any single predominant cause of the quiet revolution it is a subtle but significant change in our very concept of the term "land," a concept that underlies our whole philosophy in land use regulation. . . . Basically, we are drawing away from the Nineteenth Century idea that land's only function is to enable its owner to make money.⁹

Although some philosophical shift of our land ethic may be occurring, "quiet" may be the most descriptive term to apply to its current manifestation. Admittedly, certain environmental groups and citizen organizations from time to time have been quite voiceful on particular issues. Yet, there has been no general demand for reform, no singular direction to the shift. While some decry the spoilation of environmentally fragile lands, others resist the spiralling local tax burden, and still others fight to retain the character of a dying

neighborhood or to promote local economic and physical development. However, changing philosophies and changing behavior are not yet sufficient to change policy:

Because of the importance of real property and its widespread ownership, policies that might reduce the value or security of property and associated rights meet severe opposition. . . . Land use control techniques . . . require the reallocations (sic) of rights associated with real property. When such reallocations conflict with widely accepted values, the sociocultural environment can be expected to constrain many policy actions even though these actions might increase efficiency and equity.¹⁰

REDISTRIBUTION OF LAND USE CONTROL FUNCTIONS

In setting about to examine the potential for changing land use policies, it is necessary to begin from the proper perspective. The history of individual and collective property rights cannot be ignored, nor can the importance of land use controls to the psychological attachments and economic realities of land ownership and use be disregarded. If, for example, a shift in the locus of land use control from the local to the state level were proposed, more must be examined than the straightforward policy implications of such a shift. There are additional considerations; fiscal, human, economic, environmental and moral considerations, among others, which must be accounted for. In addition, there are management questions to be addressed--how will the new system work? Here again, any proposal to modify existing land use controls must go beyond questions of efficiency and equity.

The purpose of the study which follows is to examine the larger set of issues which surrounds the proposal that land use control

functions be redistributed. In particular, the role of the state in the changing spectrum of land use challenges will be examined. As a study by the Task Force on Natural Resources and Land Use Information and Technology of the Council of State Governments indicates:

States must take the lead in bringing policies for the development and use of land into line with current economic and environmental realities and with changing public attitudes which reflect these realities. The planning and regulatory procedures which have been in effect for five decades, authorized by the states and conducted by local governments in most cases, have not changed in response to changing needs and cannot serve contemporary concepts of the public interest in land management.¹¹

Such conclusions about the state's role in land use control have special meaning to the nation's largest state--Alaska. Nowhere else in the United States are the issues of land ownership and control more uncertain. While Alaska has attempted since statehood to establish ownership and management relationships with the federal government, the state has done little to establish an effective land use control and management interface with local governments. In case-specific terms, this study will examine the future of state land use control through the Alaskan example. That is, Alaska can be viewed as the cutting edge of change in the arena of land use control; hence, the opportunity exists for applying new techniques, based upon experiences in the "Lower 48 States,"^a and subsequently providing new directions for state land use control.

^aThe term "Lower 48" is a colloquial expression used to refer to the contiguous United States. Additional terms such as "Outside" or "down below" carry the same meaning. As used in this study, the term refers to states other than Alaska.

The study begins with a brief overview of the history of land ownership and land control in Alaska. Just as it is important to examine the general aspects of land use control through the perspective of the history of land ownership and individual property rights, so too, it is important to recognize the unique aspects of Alaska's land use history. In Chapter II, the particular difficulties attendant to the control and management of lands in Alaska are pointed out and the problems associated with establishing land use policy for a region of 586,000 square miles are discussed.

Prior to selecting the type of land use control framework needed for its future, important land ownership and management questions must be settled in Alaska. The most significant of these questions is in the area of federal ownership. Under the provisions of Section (17) (d) (2) of the Alaska Native Claims Settlement Act of 1971 (ANCSA), the federal government must classify a minimum of 80,000,000 acres of Alaska land in the "national interest"--the so-called "d-2" lands. Until the federal withdrawals under ANCSA are made, the interface between the state and other land holders, i.e., natives, municipalities, federal agencies, will remain uncertain, as will the role that each of these land owners should play in the control of land use. The history of Alaska's land ownership dilemmas, including the "d-2" land question are examined in Chapter III. In addition, the chapter introduces the remaining land use control issues which must be addressed prior to the finalization of a land use control strategy for the state.

The types of land use control mechanisms and strategies available to Alaska and their applicability to the Alaskan context provide the focus for Chapters IV and V. In addition, the long-range implications of Alaska's land use control decisions are examined in Chapter V. To fully explore the above topics, case studies of four state land use programs are discussed briefly, i.e., those of Hawaii, Vermont, Florida and Oregon. The applicability of these programs to the Alaskan context is assessed. Finally, the findings of the study are synthesized in Chapter VI, and pertinent topics for future study are proposed.

It is important for the reader to keep in mind that the land use and land use control issues addressed in this study are issues of relatively recent origin. Although such issues, in Alaska and elsewhere, are the products of centuries of history and tradition, as management issues, for Alaska, they are substantially traceable to the grant of statehood conveyed just twenty short years ago. The state's Constitution, adopted in 1956 in preparation for admission to the Union, foresaw the importance which the land and its resources would hold for the future of the state and its people, Article VIII of the Alaska Constitution states:

Section 1. It is the policy of the state to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with public interest.

Section 2. The legislature shall provide for the utilization, development and conservation of all natural resources belonging to the state, including land and waters, for the maximum benefit of its people.

In the twenty years since statehood, Alaska has seen the most rapid development of its land and resources since the opening of the western frontier. Yet, with the quickened pace of development have come concerns and fears that the end results may not be "consistent with the public interest" nor provide the "maximum benefit" to the state and its people. This study examines where the "public interest" may lie in the area of land use control and what steps should be taken to maximize the benefits that the bountiful lands of the "Last Frontier" will provide to the people of Alaska and to all the people of the United States.

ENDNOTES--CHAPTER I

- ¹Council of State Governments, The Land Use Puzzle (Lexington: Council of State Governments, 1974), p. 2.
- ²Ibid.
- ³David E. Ervin, et al., Land Use Control: Evaluating Economic and Political Effects (Cambridge, Mass.: Ballinger Publishing Co., 1977), p. 33.
- ⁴Jacob H. Beuscher, Robert R. Wright, and Morton Gitelman, Land Use: Cases and Materials (St. Paul, Minn.: West Publishing Co., 1976), pp. 41-42.
- ⁵Ibid.
- ⁶Robert H. Nelson, Zoning and Property Rights: An Analysis of the American System of Land-Use Regulation (Cambridge, Mass.: MIT Press, 1977), pp. 45-46.
- ⁷Mary Sullivan Mann, The Right to Housing: Constitutional Issues and Remedies in Exclusionary Zoning (Indianapolis: Bobbs-Merrill Publishing, 1976), p. 144.
- ⁸Ervin, et al. p. 31.
- ⁹Fred Bosselman and David Callies, The Quiet Revolution in Land Use Control, quoted in The Taking Issue: An Analysis of the Constitutional Limits of Land Use Control (Washington, D.C.: Council on Environmental Quality, 1973), p. 213.
- ¹⁰Ervin, et al. pp. 33-34.
- ¹¹Council of State Governments, Land: State Alternatives for Planning and Management, A report prepared by the Task Force on Natural Resources and Land Use Information and Technology (Lexington, Kentucky: Council of State Governments, 1975), p. 9.

Chapter II

LAND STATUS: THE TERRITORIAL YEARS

The burgeoning penchant of Americans of the nineteenth century to view the land and its resources as commodities in a free trade society was nowhere as well-suited as in the vast reaches of "Russian America." Not long after the explorations of Vitus Bering (1728 and 1741), the Imperial Government of Russia began the colonial exploitation of Alaska that would control the destiny of the territory and its people for more than two centuries. Even the transfer of Alaska to American control in 1867 failed to break the bonds of colonialism and exploitation as some had hoped it would. Not the least hopeful in this regard was Secretary of Interior, William H. Seward, who proclaimed in an address to the people of Sitka on August 29, 1869:

I know that you want two things just now, when European monopoly is broken down and United States free trade is being introduced within the Territory: these are military protection while your number is so inferior to that of the Indians around you, and you need also a territorial civil government. Congress has already supplied the first of these wants adequately and effectually. I doubt not that it will supply the other want during the coming winter. . . . Nor do I doubt that the political society to be constituted here, first as a Territory, and ultimately as a state or many states, will prove a worthy constituency of the Republic.¹

CONTINUED POLICIES OF RESOURCE EXPLOITATION

In the ninety years of Alaska's territorial status following Seward's noble declarations, it may well have been the Republic which proved to be unworthy. With few exceptions, efforts to provide protection, government, administration, judicial authority, and economic stability for Alaska were dismal failures, and many were out-and-out swindles and boondoggles.

The views expressed about the purchase of Alaska from the Russians in 1867 were varied, voiceful and often illfounded. Amidst cries of government (Seward's) folly, few voices proclaimed the logic of a \$7.2 million purchase price for a land so rich in valuable resources and resplendent beauty. Fewer still decided to travel to the great North Country for a first-hand judgment. By the first official U.S. Census in 1880, there were less than 500 white people in all of Alaska, and as Mr. Seward had said a few years earlier, their numbers were still greatly inferior to the estimated 33,000 natives.² Counter to Mr. Seward's optimism about self-government, however, the people of Alaska, white and native alike, found themselves trapped by a combination of American colonialism and benign neglect.

As the lands of Alaska had transferred from Russian to American ownership, the policies of resource exploitation were quickly transferred as well. The quest for seal and otter furs, commercial fishing, and mineral prospecting became the principle activities which attracted the attention of government officials. While extolling the commercial potential of Alaska's resources, and often assisting private entrepreneurs, the federal government conspicuously ignored the needs of Alaska's citizens. In fact, by 1877, the few soldiers initially dispatched to Alaska at the time of purchase were withdrawn, and there remained "no United States official in residence except the customs officer at Sitka."³ After numerous reports to Congress concerning the deplorable conditions within Alaska--i.e., incidents of racial violence and lawlessness, lack of schools and hospital facilities, absence of

of representation--and after repeated efforts to get Congress to take appropriate action, Alaska was officially declared a Territory of the United States by passage of the Organic Act of May 17, 1884.

The Organic Act provided for the appointment of a Territorial Governor and the support of a meager civil government. Alaska became a Judicial District with the laws of Oregon extended to the territory and with the establishment of a district court system. Yet, the independence and self-government of the people of Alaska was far from assured. Congress was miserly with appropriations for the implementation of the Organic Act and the territory remained virtually moribund by federal bureaucracy for the next seventy-five years. The first territorial school appropriation, for example, prompted Territorial Governor Alfred P. Swineford to muse: "How could schools be established on a niggardly appropriation of \$25,000 for an area one-fifth the size of the rest of the United States?"⁴ At the same time, President Grover Cleveland was seeking an appropriation of \$100,000 for a boundary survey to settle the Alaskan-Canadian border dispute which had remained unsettled since the time of purchase.⁵

The status of land during this period generally paralleled the inattention in other areas. One study explains:

From 1867 to 1884 administration of Alaskan public lands was completely neglected. The Act of May 17, 1884, which provided for civil government in Section 8, extended to little-known Alaska only "the laws of the United States relating to mining claims, and the rights incident thereto." Even extremely limited disposals under public land laws did not begin until 1891 when authority for town, trade and manufacturing, and mission-station land acquisitions was

enacted by Congress. Because of deficiencies in land surveys and land administration, however, disposals for these purposes (under the Homestead Act which was extended to Alaska in 1898) were largely nullified. The land disposal phase might well be considered to have begun when the public land laws were extended to Alaska by the Organic Act of 1912.⁶

THE ALASKAN GOLD RUSH: BOOM AND BUST

Before the passage of the Organic Act of 1912, however, a single event created more activity, interest, and development in Alaska than could be accounted for in the twenty previous years of possession--the gold rush! The discovery of gold in the Yukon Territory in 1896, and subsequent strikes in Nome and Fairbanks (1900 and 1902, respectively), brought an estimated 60,000 "prospectors" to the famed Klondike gold fields. In the tradition of the western frontier, towns sprang up overnight, goods and services of every variety were in great demand and prices seemed uncontrollable. Fortunes were made and lost with some regularity. Some of the adventurers never made it beyond ports of debarkation, while others who ventured onward never returned.

Aside from the "boom and bust" qualities of the gold rush, the effects were favorable for Alaska. New attention was focused upon the northern "icebox," and, for the short-term at least, the progress of the state was encouraging for residents and non-residents alike. As mentioned previously, the federal homestead laws were extended to Alaska in 1898, allowing newcomers and residents to select 80 acres of public land for settlement. In addition, the Organic Act of 1912 extended home rule to the territory by allowing the election of a territorial legislature. Finally, gold production began to wane after about 1910.

However, as Table 1 shows, mineral production, especially copper from the rich Kennicutt-Bonanza mines, continued to increase in total value up to about 1920.

However, the federal government failed to capitalize upon such fortuitous events as the gold and copper strikes to provide more effective government or to stimulate overall economic development. As a consequence, the advent of World War I, the fluctuation of world market gold prices, and the depletion of the most lucrative veins of copper were each sufficient to produce major developmental setbacks for the vulnerable territory.

1912 TO 1954: LIMITED COLONIZATION AND WORLD WAR II

As in the past, the destiny of Alaska returned to the smoke-filled dens and offices of the Washington bureaucracy. The period between the two world wars saw the recurrence of a familiar theme.^a

As one contemporary author described it:

Most forms of government pathology are exemplified in the history of Alaska. . . . In general, the waste and confusion in Alaska arise from four sources--lack of centralization of power and authority, lack of scientific knowledge, lack of personal and public interest, and the use of offices as political patronage. . . . Important matters must await the decision of Congress. The wisest plans fail for want of force to carry them out.⁷

^aThe notable exception to the lackluster record of federal program administration during this period was the Matanuska Valley Colonization Project. About 200 families were resettled in the Matanuska Valley north of Anchorage during the mid-1930's as part of a short-lived New Deal recovery project. See Hugh A. Johnson and Keith L. Stanton, Matanuska Valley Memoirs, (Fairbanks: University of Alaska, 1955).

Table 1

Value of Mineral Production in Alaska,
1885-1974

Years	Value (Thousands of dollars)	Years	Value (Thousands of dollars)
1885-1889	3,136	1930-1934	69,864
1890-1894	5,350	1935-1939	124,949
1895-1899	15,767	1940-1944	91,585
1900-1904	42,493	1945-1949	69,663
1905-1909	102,067	1950-1954	114,284
1910-1914	92,296	1955-1959	119,557
1915-1919	169,920	1960-1964	244,590
1920-1924	97,547	1965-1969	779,720
1925-1929	80,266	1970-1974	1,694,773

SOURCES: U.S. Geological Survey, Annual Reports, and U.S. Bureau of Mines, Minerals Yearbook, 1880-1958, as reported in Hugh A. Johnson and Harold T. Jorgenson, The Land Resources of Alaska (Fairbanks: University of Alaska, 1963), p. 286, and U.S. Bureau of Mines, Minerals Yearbook: 1959-1974 (Washington, D.C.: Government Printing Office).

The entry of the United States into World War II changed the historical pattern of federal administration in Alaska. The change was so drastic and of such great consequence that some observers have characterized the war period as a distinct phase of Alaska's development.⁸ As can be seen in Table 2, population rose dramatically as the war buildup in Alaska received highest priority due to the Japanese occupation of the Aleutian Islands. The Alaska railroad was greatly expanded, the Alaska-Canadian (ALCAN) highway was constructed by the Army Corps of Engineers, and scores of military installations were constructed throughout the state. Transportation and communication systems were vastly improved over their near primitive pre-war condition. The usually sagging territorial economy was abruptly transformed by government spending, and political leverage was at an all-time high, with military commanders able to demand power and resources previously out of reach to civil authorities.

The improved infrastructure of the territory and increased government spending which resulted from the war, encouraged many military and civil service employees to stay on in Alaska after the war. Although government activity declined sharply immediately after the war, defense spending became the mainstay of the Alaskan economy:

Compared with prewar average expenditures of less than one million dollars per year, Department of Defense expenditures in Alaska were \$455.0 million in fiscal year 1949-50 and reached a peak of \$512.9 million in fiscal year 1952-53.⁹

Table 2

Population of Alaska: White,
Native, and Other, 1880-1970

Year	Racial Group			Total
	White	Native	Other	
1880	430	32,996	- - -	33,426
1890	4,298	23,531	4,223	32,052
1900	30,493	29,536	3,563	63,592
1910	36,400	25,331	2,625	64,356
1920	27,883	26,558	595	55,036
1930	28,640	29,983	655	59,278
1940	39,170	32,458	896	72,524
1950	92,743	33,861	1,972	128,576
1960	174,546	43,081	8,540	226,167
1970	236,767	52,062	11,553	300,382

SOURCE: U.S. Bureau of the Census, Census of Population: 1970,
vol. 1, Characteristics of Population, pt. 3, Alaska
(Washington, D.C.: Government Printing Office, 1973), p. 7.

The onset of the Korean War and the "Cold War" period operated to increase the strategic importance of Alaska and to assure continued high levels of defense spending well into the sixties.

Land status in Alaska was not significantly affected by World War II, nor by federal government activity during the post-war period. Homesteading programs continued to be the major source of land transfers from the public domain to private ownership. With the increase in allowable acreage to 160 acres per homestead, and with the publicized success of the Matanuska Valley Colonization project during the late 1930's, homesteading increased in popularity each year, as can be seen in Table 3.

Improved transportation and communication systems resulting from wartime expansion added to the potential for successful homesteading. To provide economic assistance to settlers, a number of government programs were established under agencies such as the Soil Conservation Service, Farmers Home Administration and Rural Electrification Administration. The end result was a post-war homesteading boom of moderate proportions and renewed hope for the full development of Alaska's potential.

PROSPECTS FOR STATEHOOD

With the increased population and improving economic conditions of the post-war period, Alaskans began to turn their attention to the prospects for statehood. Residents of the territory wanted more than the promise of government projects and government jobs. The call was

Table 3

Homesteading Activity in Alaska,
1905-1960

Years	Number of Homesteads Granted	Total Acres Patented
1905-1909	45	2,117
1910-1914	41	2,992
1915-1919	146	16,053
1920-1924	295	52,612
1925-1929	203	26,483
1930-1934	279	19,492
1935-1939	224	20,103
1940-1944	213	22,065
1945-1949	220	24,293
1950-1954	794	91,350
1955-1959	494	53,126
1960	113	11,846

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Homesteads (Washington, D.C.: Government Printing Office, 1962).

for congressional representation, voting rights, self-government, land for public and private use, and for a chance to break the aging bonds of colonialism. By 1955, enough support for statehood existed within the territory to pass a legislative call for a Constitutional Convention. This action culminated years of conflict and debate, but in the end, two principle factors solidified the forces behind the drive for statehood:

The statehood movement . . . arose from conflict between resident and non-resident interests. The exploitation of Alaska's resources required heavy capital investment and large markets for disposal of products, both of which could only be provided from outside sources. The resulting colonial-type development followed traditional lines in ignoring local interests and in being specialized and exploitive. . . . In 1958, the last year of Alaska's territorial status, 99 percent of the land area was still under federal ownership and the fisheries and other marine resources were under federal management.¹⁰

The feelings of most Alaska residents were running high in the summer of 1955, when fifty-five delegates were elected to the Constitutional Convention. The territory was likened to the original English colonies in America--"taxation without representation," unjust laws, "benign neglect"--with the rights to life, liberty, and property on the line, just as they had been in 1776. The people of Alaska saw themselves as the last true vestige of the nation's movement westward. Yet, inexplicably, they were being denied the most basic rights of all Americans. They were the serfs of bureaucracy, in a territory owned by the federal government. The rhetoric of the statehood movement may have seemed outdated to observers elsewhere, but the words rang true in the ears of those who had endured the earlier period of territorial

evolution. No better summary nor more eloquent appraisal of the historical perspective within which statehood was being proposed could be offered than the classic keynote address of former territorial governor Ernest Gruening to the opening session of the Constitutional Convention. The address, entitled "Let Us End American Colonialism," began:

We meet to validate the most basic of American principles, the principle of "government by the consent of the governed." We take this historic step because the people of Alaska who elected you, have come to see that their long standing and unceasing protests against the restrictions, discriminations and exclusions to which we are subject have been unheeded by the colonialism that has ruled Alaska for 88 years. . . . Is there any doubt that Alaska is a colony? Is there any question that in its maintenance of Alaska as a territory against the expressed will of its inhabitants, and subject to the accompanying political and economic disadvantages, the United States has been and is guilty of colonialism? Lest there be such doubt, lest there be those who would deny this indictment, let the facts be submitted to a candid world.¹¹

Gruening borrowed the last sentence of the above excerpt from the Declaration of Independence. Numerous times during the litany of grievances which followed, Gruening alluded to the actions and writings of "our revolutionary forebearers." In the conclusion to his address, Gruening warned the convention delegates not to believe that the fight for statehood was over. Harkening again to the nation's revolutionary heritage, he closed his remarks with these words:

This Constitutional Convention is an important mobilization. But the battle still lies ahead, and it will require all our fortitude, audacity, resoluteness--and maybe something more--to achieve victory. When the need for that something more comes, if we have the courage--the guts--to do whatever is necessary, we shall not fail. That the victory will be the nation's as well as Alaska's--and the world's--should deepen our determination to end American colonialism.¹²

Gruening's caution about the remaining battle for statehood was quite prophetic. A state constitution was adopted by the Constitutional Convention in February, 1956, and was subsequently ratified by a vote of the people of Alaska in April, 1956. The Statehood Act, however, was not passed by Congress until July 7, 1958, with admission to the Union taking place through the proclamation of January 8, 1959. Regardless of the delay, Alaskans, for the most part, were thankful that the battle was at long last over, and under the terms of the Statehood Act, it appeared that Alaskans had also won the war.

LAND ENTITLEMENT

The land grant provisions of the Act entitled the state to select a total of 104.5 million acres of public domain lands, more than one-fourth of the entire land area of Alaska, for a variety of purposes as displayed in Table 4. In addition, a previous grant of tidelands (under Public Law 85-303, September 7, 1957) was enlarged under the Statehood Act to include all tidelands and submerged lands out to the three-mile limit. This provision added an estimated 35-40 million acres to the state's entitlement--in all, nearly 150 million acres. And, there was more:

This enormous land grant, larger than the combined federal land grants to all seventeen western states, was an unprecedented dowry. Tying off the package were two big bows: the title to all minerals in state-selected lands would remain with the state; thus, Alaska leases but does not sell, the rights to the oil, gas, phosphate, coal and other resources found in state lands. And, in contrast to all other states, Alaska receives 90 percent of the federal revenues from mineral leasing on public-domain lands within its boundaries.¹³

Table 4

Alaska Statehood Act Land Grants

Authority	Type	Provision
Statehood Act Sec. 6(b)	General Grant Lands	Entitles the state to select up to 102.55 million acres of unreserved federal land by January, 1984.
Statehood Act Sec. 6(a)	Community Grant Lands	Entitles the state to select 400,000 acres from the national forests and 400,000 from the public domain for community related needs.
Public Law 84-830*	Mental Health Lands**	Allows the state ten years to select one million acres of unreserved federal land to support Alaska's mental health programs.
Statehood Act Sec. 6(k)*	University Lands**	Entitles the state to select 100,000 acres of unreserved federal land to support Alaska university programs.
Statehood Act Sec. 6(k)*	Common School Lands	Granted the state sections 16 and 32 in each township of federal land which was surveyed at the time of statehood for support of public school programs.
Submerged Lands Act of 1953*	Tidelands and Submerged Lands	Granted the state title to all tidelands and submerged lands in Alaska

SOURCE: State of Alaska, Department of Natural Resources, State of Alaska Land Selection Program: Selection Guidelines (Juneau: State of Alaska, 1978), p. 20.

*NOTE: Previous grants confirmed by the Statehood Act.

**Note: These lands were placed in trust and administered by a board of trustees on behalf of specified programs. In 1978 the state legislature returned trust lands to state ownership.

In the eyes of most Alaskans, the liberal grants of land and revenue were more than warranted by past sufferings. Yet, the simple act of becoming a state was not tantamount to political or economic stability. After statehood, many Alaskans would come to believe that the real battle had just begun.

ENDNOTES--CHAPTER II

- ¹Ellen Lloyd Trover (ed.), Chronology and Documentary Handbook of the State of Alaska (Dobbs Ferry, N.Y.: Oceana Publications, Inc., 1972), p. 56.
- ²Hugh A. Johnson and Harold Jorgenson, The Land Resources of Alaska (New York: University Publishers, 1963), p. 14.
- ³Trover, p. 10.
- ⁴Mike Miller, and Peggy Wayburn, Alaska: The Great Land (San Francisco: Sierra Club Press, 1974), p. 13.
- ⁵Trover, p. 12.
- ⁶Johnson and Jorgenson, p. 54.
- ⁷Trover, pp. 59-65.
- ⁸David T. Kresge, Thomas A. Morehouse and George W. Rogers, Issues in Alaska Development (Fairbanks: Institute of Social and Economic Research, University of Alaska, 1970), see especially pp. 14-48.
- ⁹Ibid., p. 36.
- ¹⁰Ibid., pp. 46-47.
- ¹¹Trover, pp. 85-87.
- ¹²Ibid., p. 107.
- ¹³Miller and Wayburn, p. 130.

Chapter III

LAND STATUS: STATEHOOD AND BEYOND

Shortly after Alaska's attainment of statehood, a Conservation Foundation Study of Alaska's land resources made the following observations:

The way land is used and how its rights are distributed will basically shape the future of Alaska. Provisions for good land use and good land tenure are the main keys, moreover, to unlocking the resources of the region and encouraging the economic growth of the state. Their early and satisfactory elaboration is thus of the utmost importance.¹ (emphasis added)

In retrospect, it is easy to say "How true." However, the processes of statehood, land transfers, resource management, and self-government were rather foreign concepts to people who considered themselves as little more than colonists. It was impossible to foresee the kinds of political, economic, and social impediments to full-fledged statehood that would plague the new state long after parades, proclamations, and celebrations of statehood were forgotten. The Alaska of 1959 was a rough, unpolished, and in many ways, primitive mixture of native culture, frontier free-spirit, and individualism. While entering a new era in its social and political history, Alaska was also entering a new period of technological growth and resource exploitation. Unfortunately, the coincidence of these two major shifts would operate to impede seriously the state's progress toward political and economic self-sufficiency.

TRANSFER OF FEDERAL LANDS TO THE STATE

The Annual Report of the Bureau of Land Management for 1960 lists the amount of federally owned land in Alaska as more than 364 million

acres, or 99.1% of the total land area.² The first major task of the new state government was to fashion a course of entry into statehood that could integrate the land status provisions of the Statehood Act and the State's previously adopted Constitutional framework. There was general agreement that the expeditious fulfillment of Statehood land grants would benefit the new state economically and politically. Yet, with no established land evaluation or selection process, the rapid transfer of federal lands to the state could have led to haphazard and destructive land ownership patterns. Hence, the selection of statehood grant lands, of necessity, was cautious and deliberate.

The Constitution of Alaska is regarded by many as a model document in a number of respects. Having been written in the mid-1950's, the Constitution benefitted from the knowledge of past weaknesses and flaws in older state Constitutions. In addition:

The delegates to the Alaskan convention . . . were presented with an opportunity to draft a policy for the use and conservation of natural resources on a scale and with a purpose no other state had envisioned. . . . The Alaska Constitution is one of the first state Constitutions to include a general statement of policy on the use, disposition, and conservation of all land and other natural resources.³

The end results were the incorporation of the "maximum benefit" provisions in Article VIII, Sections 1. and 2. (discussed in Chapter I)

and the "sustained yield"^a provisions of Section 4. of the same Article. These general, constitutional guidelines then were translated into specific laws and policies, regarding the management and use of land and resources, under the newly organized governmental structure.

GOVERNMENTAL ADMINISTRATION: STRONG EXECUTIVE FORM

In terms of governmental administration, the Alaska Constitution attempted to account for past weaknesses in territorial administration and for shortcomings in other state government structures. The emphasis of the adopted constitutional framework was upon the "strong executive" form of government under the state's Governor. The Governor was granted the power to appoint all department heads (i.e., State "cabinet" members) and was given paramount responsibility for the general administration of all state programs, including land and natural resource programs. However, the Constitution empowered the state legislature to devise and adopt the administrative framework within which such programs should operate. The framework was created during the first session of the State legislature in 1959, with the passage of the following state laws:

^aArticle VIII, Section 4. provides that all replenishable resources belonging to the state "be utilized, developed and maintained on the sustained yield principle, subject to the preferences among beneficial uses." Cooley notes: "It is the first provision of this type ever to be written into a State Constitution, and it should help avert the destructive exploitation of resources that earlier occurred on the lands of many western states," p. 33.

- * State Organization Act (64 SLA 1959)
- * Administrative Procedures Act (143 SLA 1959)
- * Alaska Land Act (169 SLA 1959)

The State government was established under the State Organization Act, with twelve departments directly accountable to the Governor. One of the departments established by the Act was the Department of Natural Resources, with responsibility for the management of state-owned resources which include:

. . . land and water, oil and gas, timber, agriculture, and soil conservation. The Department is also responsible for other energy resources such as coal, geothermal and uranium, and hard minerals. It has the authority for the State Park System and historic preservation programs. The Department provides the principle State interface with the federal government and the private sector regarding the development of Alaska's resources.⁴

Hence, the authority for inventory and selection of statehood grant lands rested immediately with the Department of Natural Resources. To accomplish this and other responsibilities of the Department, the legislature created the Division of Lands, under provisions of the Alaska Land Act of 1959. The Division of Lands is responsible for the selection, management and disposal of State lands. "State lands include tidelands, submerged lands, shorelands, and the school, mental health and university trust lands, in addition to the General Selection Lands selected under the Statehood Act from available federal public domain."⁵

Finally, the Administrative Procedures Act of 1959 provided the procedural guidelines and policies necessary for the implementation

of state programs. Of special significance to land status, the Administrative Procedures Act provides for public hearings in connection with proposed changes to Division of Lands regulations.⁶

In short order, the legislature had provided the administrative framework and operational mechanisms required to proceed with the transition to statehood and to assume ownership of one-fourth of the state's land area. Under the Alaska Land Act, the Division of Lands adopted regulations for land classification and disposal and began the process of identifying lands for selection by the state under provisions of the Statehood Act. Here again, the criteria and mechanisms adopted for the selection of grant lands had to be established with the barest knowledge of which lands held the greatest resource potential and with little understanding of which selections might provide the "maximum benefit" to the people of Alaska. In the absence of sufficient detailed information, other than a handful of scientific studies and surveys and a minimal amount of public input, the initial selection guidelines were broad and loosely defined.

LAND SELECTION CRITERIA

Early selection criteria called for the state to select lands with potential for producing state revenue^b--i.e., oil, gas and mineral lands--and those which might enhance private and state

^bIn addition to the "sustained yield" provisions of the State Constitution, renewable resources may only be leased, with leasing revenues accruing to the state.

economic development, such as timber, commercial and industrial lands. In addition, early selections were designed to increase the supply of land available to local communities and individuals for residential, commercial and recreational purposes. As shown in Table 5, to fulfill the above criteria, the state selected, during the period 1959-1964, more than nineteen million acres of land under the various statehood entitlements. The movement toward "established" statehood appeared to be well under way toward the close of the sixties, and it appeared that the state would have little trouble completing its statehood selections by the 1984 deadline established by the Statehood Act.^C

However, a number of major forces intervened in the transitional processes of land selection. George W. Rogers in Change in Alaska explains:

One set of the new contemporary forces bringing change to Alaska is associated with the political advancement from territorial status to that of full statehood and the growth of the proportion of the total population which considers Alaska to be their home--the native people and the truly resident non-native Alaskans. . . . Two major events in the mid-1960's may be taken as indexes of these underlying forces of contemporary change. The first was the formation of the Alaska Federation of Natives and the massive filings of aboriginal land claims in 1966 and 1967.

^CThe most significant controversy surrounding selections during this early period was in regard to the size of selection tracts. The Statehood Act required the selection of "reasonably compact" tracts of at least 5,760 acres. The BLM wanted the state to select rather large tracts, while the state was selecting smaller tracts. State selections were held by the BLM without action until a compromise was reached, whereby the state agreed to select land by township units (23,040 acres) (see Cooley, pp. 49-50).

Table 5

Alaska Statehood Act Land Selections
1959-1964

Year	Type of Grant					Total
	General	Mental Health	Community	Common School	University	
1959	1,094,864	312,385				1,407,249
1960	4,724,293	203,131	25,503		99,015	5,051,942
1961	4,354,804	60,077	11,983			4,426,864
1962	1,643,869	26,485	1,026		3,510	1,674,890
1963	4,328,185	251,332	25	3,091*	203	4,582,836
1964	1,966,768	69,216	18,505	3,942*	871	2,059,302
Cumulative Total:**	18,112,783	922,626	57,042	7,033	103,599	19,203,083

SOURCE: Richard A. Cooley, Alaska: A Challenge in Conservation (Madison, WI.: University of Wisconsin Press, 1967), p. 152.

*NOTE: These lands did not require selection. The acreages shown are for those lands patented to the state.

**NOTE: Totals include school lands selected and patented prior to the granting of statehood.

The second was the announcement of the Prudhoe Bay petroleum discoveries in 1968, the North Slope oil rush of 1969, and the \$900 million state land lease sales in September of that year.⁷

Through these two events, native land claims and North Slope oil leases, the heretofore unheralded process of Alaska's transition to statehood was thrust into national prominence. The fear of uncontrolled development of Alaska's resource lands and plans for the construction of an oil pipeline drew a number of "environmental" groups into the land selection process. At the same time, hearings on native land claims legislation focused national and international attention upon land issues in Alaska.

NATIVE LAND CLAIMS AND THE TRANS-ALASKA PIPELINE

The issue of native land claims in Alaska was simply another manifestation of federal ineptness and procrastination in Alaskan affairs. The obligation of the United States to settle native land claims in Alaska was recognized by the Alaska Organic Act of 1884; however, no direct settlement action had ever been initiated. With filing of claims to all of Alaska's lands by the Alaska Federation of Natives in 1966 and 1967, the issue of claims settlement became unavoidable for the federal government. The effects upon Alaska land status were immediate:

By filing claims and protests to most of the lands in Alaska, the natives have placed in controversy all lands in process of selection and transfer to the state under the Statehood Act as well as the lease, sale, and other disposition of federal public lands generally. This has created what is commonly referred to as a "land freeze."⁸

By order of the Secretary of the Interior, Stewart Udall, federal agencies, in particular the Bureau of Land Management, were precluded from further disposal of federal lands, including homesteads, statehood grant lands and federal withdrawals (i.e., for National Parks, refuges, etc.) in Alaska, pending final resolution of native land claims. For the first time, the state could expect to have competition in the land selection process. In addition, it was apparent that when the state selection process resumed, the mechanics of selecting specific parcels of land would be far more complicated. Despite the impending difficulties in view in 1968, there was general agreement that "in scope and urgency, the settlement of native land claims and protests is the most important problem facing Alaska today."⁹

While congressional deliberations on the native claims issue continued, so, too, did the oil companies' preparation for the construction of a Trans-Alaska Pipeline. Major oil companies holding leases on Prudhoe Bay lands formed a pipeline construction consortium, Alyeska Pipeline Service Company, to begin the proposed 800-mile pipeline. Although activity was at a fever pitch by late 1969 and early 1970--including an attempt by the state to construct a North Slope "haul road," the so-called "Hickel Highway"--the native claims land freeze and litigation by environmental groups soon brought construction plans to a standstill. The Interior Department refused to issue the necessary permits to allow construction to begin while debate over native land claims legislation continued. In the meantime, environmental groups--most notably the Sierra Club, Wilderness Society, Friends

of the Earth and the Audubon Society--were focusing national attention upon the potential environmental hazards of constructing the Trans-Alaska Pipeline. Legal action was taken by a number of these groups to halt pipeline construction based on potential violations of the National Environmental Policy Act (NEPA) and the federal Mineral Leasing Act of 1920. Construction of the pipeline was effectively forestalled while Congress and the courts considered the myriad of issues and implications.

There is little doubt that the land freeze and the delay in construction of the Trans-Alaskan Pipeline acted to expedite settlement of the native land claims, although the congressional findings of the Alaska Native Claims Settlement Act of 1971 (ANCSA) stated simply:

The settlement should be accomplished rapidly with certainty, in conformity with the real economic and social needs of natives, without litigation, with maximum participation by natives in decisions affecting their rights and property, without establishing any permanent racially defined institutions, rights, privileges, or obligations, without creating a reservation system or lengthy wardship or trusteeship, and without adding to the categories of property and institutions enjoying special tax privileges or to the legislation establishing special relationships between the United States government and the State of Alaska.¹⁰

Whatever the underlying reasons for passage of the Native Claims Act, Congress was quite generous in the settlement, particularly in its grant of 44 million acres of federal lands to native corporations. Table 6 outlines the significant entitlements and provisions of ANCSA. The changes in land status and in the selection process which the state had envisioned as resulting from the native claims settlement were much

Table 6

Major Provisions of the Alaska Native
Claims Settlement Act of 1971 (ANCSA)

Section	Provision
6.(a)	Establishment of "Alaska Native Fund" to provide \$1 billion to regional and village corporations.
7.(a)	Establishment of 13 Regional Native Corporations for receipt of land and cash payments.
8.(a)	Establishment of Village Native Corporations for receipt of land and cash payments.
12	Selection of 44 million acres of federal land by regional and village corporations.
17.(a)	Establishment of Joint Federal-State Land Use Planning Commission for Alaska.
17.(b)	Easements across native selected lands.
17.(d)(1)	Withdrawal of up to 64 million acres of unreserved federal lands for management by the BLM in the national interest.
17.(d)(2)	Withdrawal of up to 80 million acres of unreserved federal land by the Sec. of the Interior, for possible classification as National Park, Forest, Wildlife Refuge or Wild and Scenic River.
17.(d)(2)(E)	Alaska Statehood Act selection approvals held in abeyance pending national interest land withdrawals.

SOURCE: Alaska Native Claims Settlement Act (Public Law 92-203) U.S. Code, vol. 43, sec. 1601.

more far-reaching than could have been expected. Although ANCSA clarified a number of land status issues, a number of new issues, in turn, were created.

Numerous interpretations of the effects of ANCSA are possible.

One study concludes:

. . . (ANCSA) had at least two major parts to it, and one was not going to happen without the other. The first comprised a settlement with the natives, an opening toward major resource development activity, and an unprecedented increase in private land ownership; the second, a recognition of national interests in the ownership and utilization of Alaska's land and resources.¹¹

A less optimistic view is offered by Peggy Wayburn:

In framing ANCSA, the Congress largely ignored the traditions and customs of the native peoples--the land ethics on which they had based an earlier and remarkably successful existence, the historic philosophies and concepts that had guided and sustained them, even the long-established patterns of their subsistence hunting. The terms of the Act were a modern businessman's terms: ANCSA divided Alaska into twelve regional corporations, established to conduct "business for a profit."¹²

Whatever the interpretation of ANCSA, the state felt there was little doubt that selections of statehood grant lands could resume. While ANCSA called for the establishment of land "pools" from which the native corporations and the federal government would make their selections, the state felt it had a prior right to select from any available (i.e., "vacant, unappropriated and unreserved") federal lands. Consequently, one month after the passage of ANCSA, the state filed selections totaling 77 million acres. When the Department of Interior would not act upon the state's selection request, the state went to court. An out-of-court settlement between the parties allowed

the state to select 41 million of the requested 77 million acres. Subsequent to this negotiated settlement, state selections were sporadic and much smaller in size. The selection process moved to the back burner once again as the Trans-Alaska Pipeline issue began to build to a crescendo in the early 1970's.

Further delay in pipeline construction due to the land freeze, of course, was negated by passage of ANCSA, but the environmental issues still remained. The see-saw battle between environmental groups and pipeline developers raged on, with a final breakthrough appearing to come in February, 1973, with a decision in the principle litigation Wilderness Society v. Morton (1973, 479 F. 2d 842):

Avoiding the NEPA question, the court ruled that the secretary (of the Interior) lacked authority to grant rights-of-way across federal lands for large oil and gas pipelines because the Mineral Leasing Act of 1920 explicitly limited the width of such rights-of-way to only twenty-five feet on either side of a line. Trans-Alaska pipeline construction, together with a haul road and related facilities, would require one hundred feet.¹³

With the decision in the pipeline case, the fate of the Trans-Alaska Pipeline was placed squarely before Congress. Finally, late in 1973, in the midst of the Arab oil embargo, Congress acted to amend the Mineral Leasing Act and passed the Trans-Alaska Pipeline Authorization Act: the way was clear to begin construction of the 800-mile pipeline in the spring of 1974.

THE "d-2" LANDS

The economic aspects of statehood appeared to be getting in balance with the oil leases and projected royalties of the North Slope

and the pipeline project. Yet, the prospects for additional resource revenues seemed uncertain without a final settlement of the statehood land selections. From the state standpoint, a final complication had developed as a result of ANCSA. Under provisions of Section 17(d)(2) of the Act, Congress empowered the Secretary of the Interior to withdraw up to 80 million acres of federal lands for possible inclusion in federal management programs, i.e., National Parks, Wildlife Refuges, National Forests, Wilderness Areas and Wild and Scenic Rivers. Congress gave itself until December 1978 to select and classify these "d-2" lands in Alaska national interest lands legislation.

As the deadline approached in mid-1977, conservation organizations, industry, the State of Alaska, and federal agencies geared up for the battle that was sure to come over (d)(2) lands. Four major congressional bills on these land classifications were proposed and being debated by early 1978.¹⁴

Proposals for federal withdrawals ranged from as high as 111 million acres to as low as the 80 million acres suggested for study under ANCSA. The debate was and is as heated as any national conservation issue ever debated in the United States; consequently, Congress to date has been unable to find an acceptable solution. In the meantime, land status in Alaska has entered a new period of uncertainty and confusion. Once again, Alaska has reached a critical point in its development and maturity as the forty-ninth State of the Union.

ENDNOTES--CHAPTER III

- ¹Hugh A. Johnson and Harold T. Jorgenson, The Land Resources of Alaska (New York: University Publishers, 1968), p. 385.
- ²Annual Report of the Bureau of Land Management for 1960: Statistical Appendix (Washington: U.S. Government Printing Office, 1961), p. 12.
- ³Richard A. Cooley, Alaska: A Challenge in Conservation (Madison, Wisc.: University of Wisconsin Press, 1967), p. 32.
- ⁴Annual Report of the Alaska Department of Natural Resources for 1976 (Juneau: State of Alaska, 1977), p. 3.
- ⁵Ibid., p. 15.
- ⁶Cooley, p. 35.
- ⁷George W. Rogers (ed.), Change in Alaska: People, Petroleum and Politics (Fairbanks: University of Alaska Press, 1970), p. 5.
- ⁸U.S., Congress, Senate, Committee on Interior and Insular Affairs, Hearings, Alaska Native Land Claims, 90th Congress, 2d Sess., 1968, Sec. 2906, p. 511.
- ⁹Ibid., p. 510.
- ¹⁰Alaska Native Claims Settlement Act (Public Law 92-203) U.S. Code, vol. 43, Sec. 1601, 1971.
- ¹¹David T. Kresge, Thomas A. Morehouse and George W. Rogers, Issues in Alaska Development (Fairbanks: Institute of Social and Economic Research, University of Alaska, 1970), p. 79.
- ¹²Mike Miller and Peggy Wayburn, Alaska: The Great Land (San Francisco: Sierra Club Press, 1974), p. 132.
- ¹³Kresge, Morehouse, and Rogers, p. 85.
- ¹⁴State of Alaska Land Selection Program: Selection Guidelines (Juneau: Department of Natural Resources, 1978), p. 4.

Chapter IV

LAND USE: EMERGING PATTERNS OF OWNERSHIP, MANAGEMENT AND CONTROL

The first twenty years of Alaskan Statehood have been fraught with political, economic and cultural uncertainties, not at all unlike those experienced during the territorial period. The belief that statehood would place Alaskans in charge of their own destiny has been erased by the realities of the past two decades. Emerging from this period of adolescence, the state has begun to take stock of its past while moving inexorably toward its future. Mistakes have been made; some opportunities have been lost, while others have been gained. Problems and concerns of the greatest magnitude have captured the attention and energies of Alaska's leadership--and, of its people generally--leaving little in the way of time and resources for plotting a future course.

Now, the beginning of a new era for Alaska seems to be at hand. The state will be entering a new stage of maturity in the coming decades, and success in meeting future challenges will rest largely upon the state's response to the issues surrounding the use of its lands. With Alaska's future so inextricably linked to natural resource development, a logical framework of land management and control must be designed and implemented in order to fully realize the state's vast potential. The hopes and ideals expressed in Alaska's constitution may yet be fulfilled, if coordinated and concerted actions to manage and control the land and its resources are forthcoming from the state and its localities. The goals of stability and self-support are still attainable without the damage and despoilation that accompany uncontrolled development. The need and ability to achieve a balance between development

and preservation are squarely within the purview of the state--the existence of a desire to create such a balance, however, is the greatest remaining uncertainty.

THE OPPORTUNITY FOR A CREATIVE APPROACH

In addition to the political and economic opportunity afforded through the grant of statehood, there was presented as well a unique opportunity for Alaska to be creative in its approach to land use control and resource development. Indeed, the constitutional and statutory framework adopted by the state were a recognition of this latter opportunity. Some observers feel this early opportunity to be innovative has largely been lost:

Not the least of the benefits given Alaska in the enactment of its statehood was the rare chance to pioneer in new approaches to land use and development, to build into the exploitation of the land some measure of protection and understanding. By the terms of statehood, the means were there. But most Alaskans, including many key decision-makers, were too deeply steeped in the earlier pioneer tradition of taking all they could get and hopefully striking it rich.¹

However, the picture is not yet as grim as it sounds. Even after the native claims settlement and the pipeline boom, less than one-half of one percent of the land area of the state was in private ownership. In addition, although the state has not been particularly "pioneering" in the area of land use control, a framework for management and control of lands^a has been developing since the time of statehood.

^aAs used in this study the term "management" refers to the administration of land and land programs in accordance with established scientific principles. The term "control" refers to the body of legal, statutory and proprietorial mechanisms which affect how land is used. It

Figure 1 details the significant aspects of statehood, ANCSA and the impending National Interest Lands Act^b which combine to form the Alaskan framework of land use. The statutory underpinnings of this framework are heavily weighted toward ownership. Historically, the need existed to establish the patrimony of the principles--federal, state and native. Little consideration was given to the need for creating an effective set of control mechanisms, beyond those contained in conveyance documents (i.e., the Statehood Act, ANCSA).

The purpose of this chapter is to discuss Alaska's evolved land use framework, to look closely at its various components, and to examine the state's potential for adopting new forms of land use control. In Chapter V the specific mechanisms and systems of land use control which might logically be applied to the existing Alaskan framework will be examined.

THE STATE ROLE IN ALASKA'S LAND USE FRAMEWORK

As the preceding chapters have shown, land use in Alaska prior to statehood was confined to economic uses such as mining, fishing and

should be noted, however, that the Alaska land use context does not always allow a complete distinction between these two concepts. In many instances, one is substituted for or assumed to be the other.

^bAs used in this study "National Interest Lands Act," "Alaska National Interest Lands Act" and "Alaska National Interest Lands Conservation Act," all refer to the Alaska lands legislation which is currently pending before the U.S. Congress. References to specific provisions of the Act are taken from House of Representatives Bill 39, passed by the House of Representatives, 95th Congress, 2d Session, and are considered to be representative of the prospective final legislation.

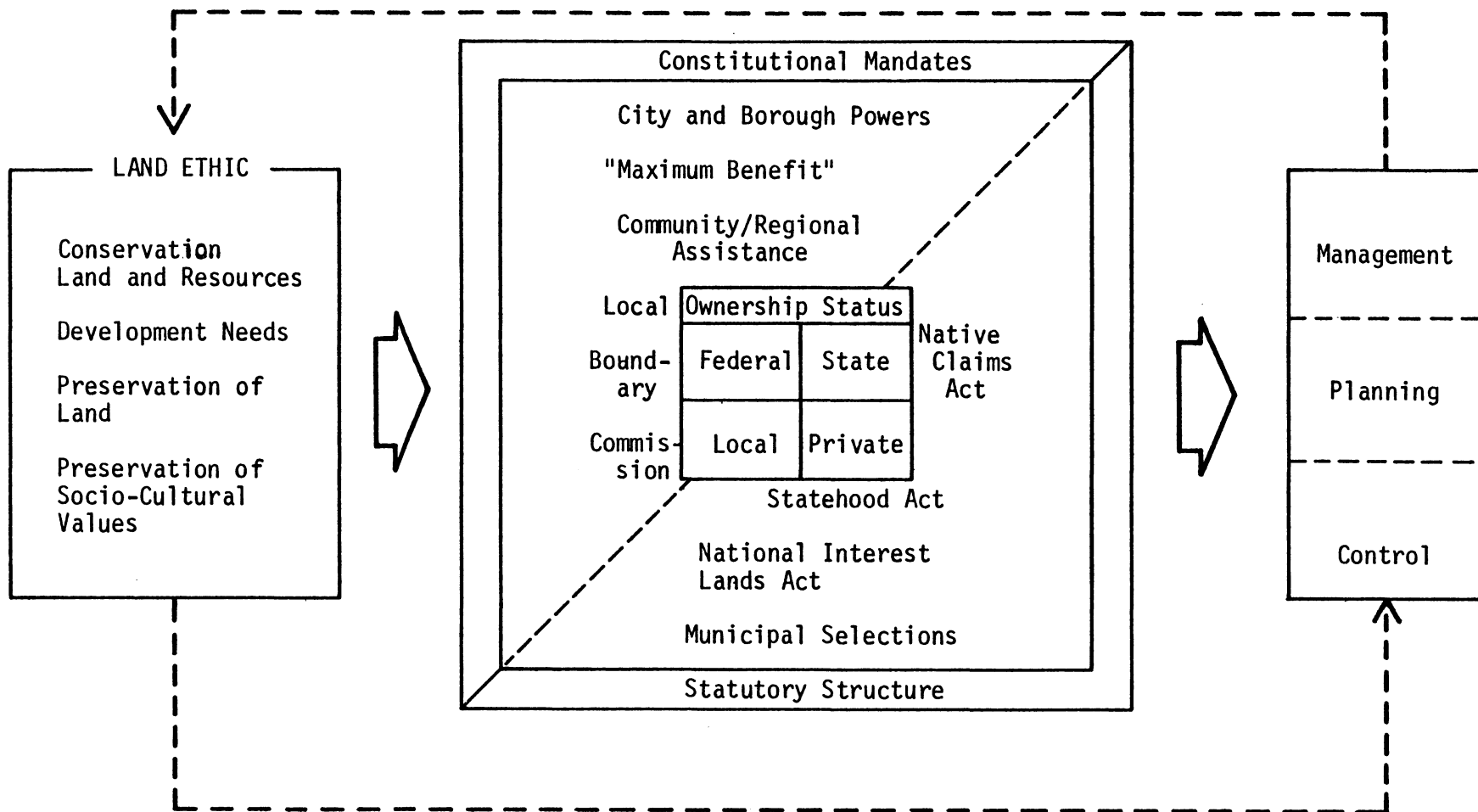


Figure 1

Alaska's Emerging Land Use Framework

trapping, and a moderate amount of homesteading for agricultural purposes. The overriding principle guiding any form of land use was a belief in the inexhaustability of land and natural resources. In a region so large, isolated and sparsely populated, land use was simply a battle of man against nature. The earth would only yield its wealth if men could overcome the barriers of ice, permafrost, mud, weather and mosquitoes. Under such harsh conditions, the land itself became one more barrier, and its use--whether for farming, mining or settlement--became one more challenge of the wild north country.

SYMBOLIC ELEMENTS OF LAND OWNERSHIP

Historically and presently, Alaskans have carried on the land ethic and philosophies of earlier eras of frontier development. Yet, land also became a symbol of the drive for independence and self-support, particularly during the territorial years. Many Alaskans still hold the belief "that the abundance of their land will eventually suffice for attainment of all social goals of a modern democratic state if properly drawn upon by technology's tools."² The essence of this symbolism found its way into the state constitution in 1956, and most assuredly into the Statehood Act of 1958, when the federal government agreed to the largest land grant in its history. The future of the state was, and is, in the land and its resources. Hence, as a land use framework has evolved, both the real and the symbolic elements of land ownership and use have been formalized in a constitutional and legal sense.

At the close of the territorial period, discernable changes were taking place in the land use patterns of Alaska. The territory had for some time been shifting its settlement from predominately rural to predominately urban settlement patterns, as Table 7 shows. This trend was most apparent in the decade after World War II, when "the postwar defense build-up brought big town development to Alaska."³ Additionally, the advent of statehood carried with it questions of local government structure and localized development issues. As surely as the state was dependent upon land and natural resources for future growth and development, local communities--particularly expanding urban centers like Anchorage and Fairbanks--required land for residential, commercial, industrial and public service purposes. In addition, localities needed to exercise some form of local control over land use and development in order to meet local objectives. These issues and others in the same vein were taken up by the delegates to the state constitutional convention in late 1955 and early 1956, as they fashioned the governmental structure required for statehood.

LOCAL GOVERNMENT IN ALASKA

Prior to statehood, local government in Alaska was a hodgepodge of laws, regulations and assorted governmental entities. The emphasis of early local government measures was upon the provision of needed services and not much else. Police protection, public utilities, and education were the three principle concerns of local government. To carry out services in these areas, the territorial legislature created the following structure:

Table 7

Urban and Rural Population of Alaska
1920-1970

Year	Population by Location				Total Population
	Rural Number	Percent	Urban Number	Percent	
1920	51,978	94.4	3,058	5.6	55,036
1930	51,439	86.8	7,839	13.2	59,278
1940	55,150	76.0	17,374	24.0	72,524
1950	94,381	73.4	34,262	26.6	128,643
1960	140,400	62.1	85,767	37.9	226,167
1970	154,870	51.6	145,512	48.4	300,382

SOURCE: U.S. Bureau of the Census, Census of Population: 1970, vol. 1, Characteristics of Population, pt. 3, Alaska (Washington, D.C.: Government Printing Office, 1973), p. 67.

- * Incorporated Cities
- * Public Utility Districts (PUD)
- * Independent School Districts

With the exception of major urban centers--Anchorage, Fairbanks, Juneau--the cities and towns of Alaska had only limited capacities for meeting local service needs. Hence, the structure which evolved was designed to allow flexibility for localities and for the territorial government. In most instances, the territory assumed a broad range of local functions, including road construction and maintenance, health care, education, police protection and utilities, while cities collected small amounts of tax to pay for local administration--usually a mayor and town clerk.

As some cities began to grow in population and in area-wide/regional importance, services traditionally provided by the federal government or the territory were localized through the use of school districts and public utility districts. At the turn of the century, for example, education was principally a function of the federal government's Native School System, under the Bureau of Indian Affairs, or of the territorial school system established for non-natives. In 1935, the territorial legislature authorized the formation of independent school districts "encompassing cities, their suburbs and adjacent hinterlands."⁴ This approach gave local residents more control over the education process and provided a sense of local autonomy from federal and territorial control. The popularity of local school districts increased, and:

By the time of statehood in 1959, there were approximately 20 city school districts, nine independent school districts, one incorporated school district, 100 state-operated schools, and 80 federal BIA schools. The city and independent school districts in the more urbanized areas of the state enrolled about two-thirds of the 60,000 children served by the three major systems in Alaska--federal, state, and local.⁵

Similarly, public utility districts offered local control of a variety of public services in unincorporated areas. PUD's were independently financed, governed by a locally elected board of directors, and provided "virtually any local service, including all utilities, and the development and operation of such diverse enterprises as hospitals, dams, cold storage plants, warehouses, and canneries."⁶ Here again, local control of utilities and other services offered a sense of autonomy which fit well with Alaskan traditions of independence and self-reliance. The significance of this desire for local control, and the historical perspective of its manifestation in local governmental structure were of principle concern to the constitutional convention which convened in November of 1955.

After months of discussion and debate on the issue of local government,^c the delegates drafted a unique article which outlined the structure and authority of local government. The intent of the adopted provisions was clearly stated:

^cThe issues surrounding local government were some of the most debated of the constitutional convention. The convention relied upon legal/governmental consultants and numerous reports on local government. The local government provisions adopted reflect the delegates attempt to overcome the historical weaknesses of local government.

The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.⁷

To achieve these stated purposes, the constitution vests the powers of local government in cities and boroughs. Boroughs are roughly equivalent to the traditional county form of government; however, the framers of the Alaska state constitution designed the borough form to overcome the common weaknesses of county government.^d

Table 8 outlines the major local government provisions of the Alaska Constitution. The thrust of these provisions taken together is to balance the need for local government in urban and rural areas. That is, boroughs were intended to assume many of the service responsibilities in rural areas previously assumed by the state, while cities, although considered to be part of the borough in which they were located, could continue to provide traditional urban services. Through the cooperation of cities and boroughs, the proper balance of services and taxation could reasonably be achieved. Finally, the legislature was charged with the responsibility of devising and implementing

^dAs seen by the delegates, the inadequacies of counties included limited functional jurisdiction, frozen boundaries, an overabundance of constitutionally established elective offices, and lack of specifically local governmental authority. Morehouse and Fischer, p. 37.

Table 8

Local Government Provisions
of Alaska State Constitution
(Article X)

Section	Title	Provision
1	Purpose	Maximum local self-government. "Liberal construction" given to powers of local government.
3	Boroughs	Entire state divided into organized and unorganized boroughs.
5	Service Areas	Organized boroughs may establish, alter or abolish service areas.
6	Unorganized Boroughs	Legislature empowered to provide services and exercise control over unorganized boroughs.
7	Cities	Incorporation powers and functions of cities to be prescribed by law.
12	Boundaries	Local boundary commission established to consider boundary changes of cities and boroughs.
13	Transfer of Powers	Cities may transfer powers to boroughs in which they are located.
14	Local Government Agency	Agency established in executive branch to advise and assist local governments.

SOURCE: Alaska, Constitution, as amended, 1970.

a workable system of local government which embodied the general intent of the constitution. This proved to be a more difficult task than the constitutional convention delegates suspected it to be.

BOROUGH ACT OF 1961/ MANDATORY BOROUGH ACT OF 1963

The first problem to be addressed by the legislature was the status of cities, school districts, and public utility districts that would become part of organized boroughs. It was generally recognized that attempting to replace these more familiar forms of local self-government with a larger and somewhat experimental form of borough government would not meet with popular approval. Yet, there was obviously a need for an intermediate level of government to assume area-wide and regional responsibilities, particularly in rural areas. The legislative solution was the Borough Act of 1961 (146 SLA 1961) which called for the incorporation of boroughs through local elections. In those areas where boroughs were formed, services previously provided by special service districts and independent school districts would become the responsibility of the borough. Incorporated cities within the borough would continue to provide urban services, and there would be representation on the borough assembly from each first class city within the borough. Cities could continue to incorporate as first through fourth class, or first class-home rule, and each had the powers of annexation prescribed by state law.⁸ Here again, the intent was to preserve the dichotomy of urban and rural services which had traditionally existed.

The Borough Act of 1961 was a dismal failure in nearly every respect. Since the incorporation of boroughs was dependent upon local initiative, little occurred during the two years which the Act provided for incorporation. Suspicions that boroughs would usurp local control had operated to create local opposition to borough formation, particularly in urban areas and independent school districts. In other areas, where borough formation might have seemed more logical, opposition arose from rural residents who were not interested in being placed under the taxing authority of a borough. The result was the formation of a single borough by July, 1963.

Seeing no significant change in local attitudes in sight, the legislature enacted the Mandatory Borough Act of 1963 (52 SLA 1963), which was designed to force the formation of boroughs and their integration with public utility districts and independent school districts. The Act provided for incorporation of defined boroughs, (based upon election districts) as first or second class boroughs, through local elections. Areas failing to so incorporate would face mandatory incorporation by the state. The results were:

Four "local option" boroughs were established in 1963 elections under the threat of mandatory incorporation by the state, but incorporation proposals were defeated in the Fairbanks and Anchorage areas. These and two other boroughs were then mandatorily incorporated on January 1, 1964. . . . With the exception of Juneau, voters in the eight areas chose second rather than first class status for their new boroughs. The apparent feeling was that, if boroughs had to be, let their powers be limited. (emphasis added)⁹

Admittedly, the implementation of the borough government system had not been accomplished in the truest spirit of the constitutional mandate. Indeed, the spirit of the statehood movement was somewhat tarnished by the internal dissension brought on by borough legislation. Yet, the problems attendant to borough formation were more deeply seeded than the objections of local voters. The borough system was largely an experiment based upon the need to overcome the inadequacies of the "lower 48" county system. Hence, it was foreseeable that problems and difficulties would surface.

The somewhat unexpected outcome of the borough formation process was the inability of state and local governments to decide upon an equitable distribution of governmental functions. Just as it was hoped that cities and boroughs would cooperate in the allocation of services, it was intended that the incorporation of boroughs would remove a significant amount of the state's burden in providing local services--this never materialized to any great degree. Consequently, the constitutional intent of providing "maximum local self-government" was somewhat diluted, and the end result was a system permeated with suspicion and confusion among the various levels. The borough system may not have been a total failure, but there is little doubt that the system which evolved had some rather serious deficiencies. Morehouse and Fischer conclude:

Opposition to the creation of boroughs forced major compromises in the design of this new governmental unit. As defined by law, the borough would perform only minimal functions--education and planning and zoning--and their boundaries would correspond more or less to the old

independent school district areas. Thus, a "new" governmental unit was created, but the general pattern of local services would remain much as before. The only important changes were that new areas were brought under the jurisdiction of local government, additional people were taxed, and cities and school districts were faced with a new unit competing for funds, functions and territory.¹⁰

However, it is interesting to note that by the end of the borough formation period a strong framework of government structure had emerged and this same framework has carried through to the present. With the passage of appropriate legislation and implementation of the right kinds of programs, the borough system could easily mature into the form envisioned by the framers of the state constitution. For example, under the existing local government system, boroughs have mandatory responsibilities in the areas of education, tax assessment and collection, and planning and zoning. Most first, second and third class cities have the same responsibilities (as boroughs), among others, while the state performs similar functions in unorganized areas (see Table 9 for an outline of major responsibilities of incorporated boroughs and cities). An integrated system of planning, for instance, could coordinate efforts at all three levels, and add consistency to the state and local programs without overstepping the bounds of authority that already exist. This idea will be explored more fully in subsequent chapters with regard to land use control.

MUNICIPAL SELECTIONS ACT OF 1978

Almost as an afterthought, the Mandatory Borough Act of 1963 stipulated that organized boroughs and cities could select ten percent

Table 9

Functional Responsibilities of Borough
and City Governments in Alaska,
By Class

Boroughs	Functional Responsibilities
Unified Home Rule Municipalities	Performs full range of urban services* on an area-wide basis. Provide area-wide education, planning and zoning, and property tax assessment and collection.
First Class (Home Rule)	Provide education, planning and zoning and property tax assessment and collection for borough residents only. Perform limited urban services through service districts.
Second Class	Same as first class without home rule powers.
Third Class	Serves mainly as school district or service area for borough residents only.
Cities	Functional Responsibilities
First Class (Home rule)	Assumes all legislative powers not prohibited by law or charter. Must maintain local school system, has full taxing powers and may be held "responsible for adequate performance of authorized acts undertaken."
First Class	Same--without home rule powers.
Second Class	Similar to first class with some limitation on taxing power. Provide limited range of services.

Table 9 (Continued)

Cities	Functional Responsibilities
Third Class	Same as second class.
Fourth Class	Limited powers. May not levy property taxes or special assessments. No specific mandatory responsibilities.

* Urban services are the full range of customary services such as police protection, licensing, health services, sewers, dog control, land fills, etc.

SOURCE: Thomas A. Morehouse and Victor Fischer, Borough Government in Alaska (Fairbanks: Institute of Social, Economic and Government Research, University of Alaska, 1971), pp. 85-87 and Appendix B.

of the vacant, unappropriated and unreserved state lands within their boundaries at the time of incorporation. This provision was intended to promote the voluntary formation of boroughs, but, as was pointed out above, the voluntary aspect of borough incorporation was largely unsuccessful--not withstanding the offer of free land. However, when the boroughs were finally created, they soon found themselves in the land selection business. For some time the state and the boroughs and cities worked closely in identifying and transferring lands appropriate for community and area development. With the land freeze of 1966, selections were nearly halted, since the future of the selection process was uncertain. In addition, a number of cities and boroughs became disturbed by the selection process and the state's "arbitrariness" in approving and disapproving particular selections. Subsequently, litigation was started against the state to clarify the position of the parties.

The thrust of the "municipal selection"^e provision of the Mandatory Borough Act was to place boroughs and cities in the land business. Much as the federal government had recognized the state's need for land and natural resources to stabilize its economy, the state, in turn, recognized the need of the localities for expansion lands to increase tax revenues and for income purposes. At first, the state did all it could in providing the types of land which municipalities desired. It soon became apparent to the state that the transfer of

^eThe term "municipal" refers to both boroughs and cities.

lands to municipalities would potentially lead to uncontrolled development, and undesirable patterns of ownership and management. At this point, the state began to slow down the municipal selection process and became more intimately involved in local land use control issues. Finally, a resolution of the issues was mandated by the state legislature with the passage of the Municipal Selections Act of 1978.^f

With the resumption of municipal selections of state land, the cities and boroughs have found themselves in the land market, and in many cases the economic gain from land transfers and subsequent sales and leases will reach well into the millions of dollars. The continued uncertainty surrounding native and state selections, due to pending "d-2" legislation, has impacted upon municipal selections, and the final status of lands within municipal boundaries may not be known for years to come. It is clear, however, that when the municipal selection process has run its course the cities and boroughs, particularly those in the more populous areas of the state, will have a significant impact upon how land is used, or misused, in Alaska.

STATE-LOCAL INTERFACE

In summary, the interface between state and local governments in Alaska has produced a relatively strong segment of the state's land

^fThe Act provided specific acreage entitlements to each borough and allowed eligible cities to select 10% of the "unappropriated, unrestricted and unreserved" state lands within city boundaries at the time of incorporation.

use framework. Admittedly, the period of government formation has been stormy and confusing, however, an operational framework has been created which could be most effective if properly applied to Alaska's land use and land use control problems. Figure 2 summarizes the major elements of state-local interface, with particular attention to existing land use control mechanisms and regulations. The key features of this interface are:

1. A planning and zoning capacity exists at all three levels of government--state, borough and local.
2. The state may delegate powers of local government only to cities and boroughs--taxing powers may only be delegated to organized cities and boroughs.⁹
3. Incorporated cities have annexation powers for surrounding suburban areas--they may annex portions of organized or unorganized boroughs.
4. Boroughs may create service areas to meet service needs of residents not within city boundaries.
5. Local government powers may be transferred between incorporated cities and organized boroughs, by mutual agreement or by a vote of affected residents.
6. Home rule and first class cities within an organized borough are represented on the borough assembly.
7. Boroughs and major urban areas may unify to form a single government called "unified home rule municipalities."

⁹As of 1977, there were three unified home rule municipalities (combined city-borough government), one home rule borough, six second class boroughs, one third class borough, eleven home rule cities, twenty-one first class cities, and one hundred seven cities of the second class for a total of one hundred fifty units of local government. Alaska Department of Community and Regional Affairs, Alaska Municipal Officials: Directory 1977 (Juneau: State of Alaska, 1977). Also refer to Table 11, Functional Responsibilities of Alaska Borough and City Governments.

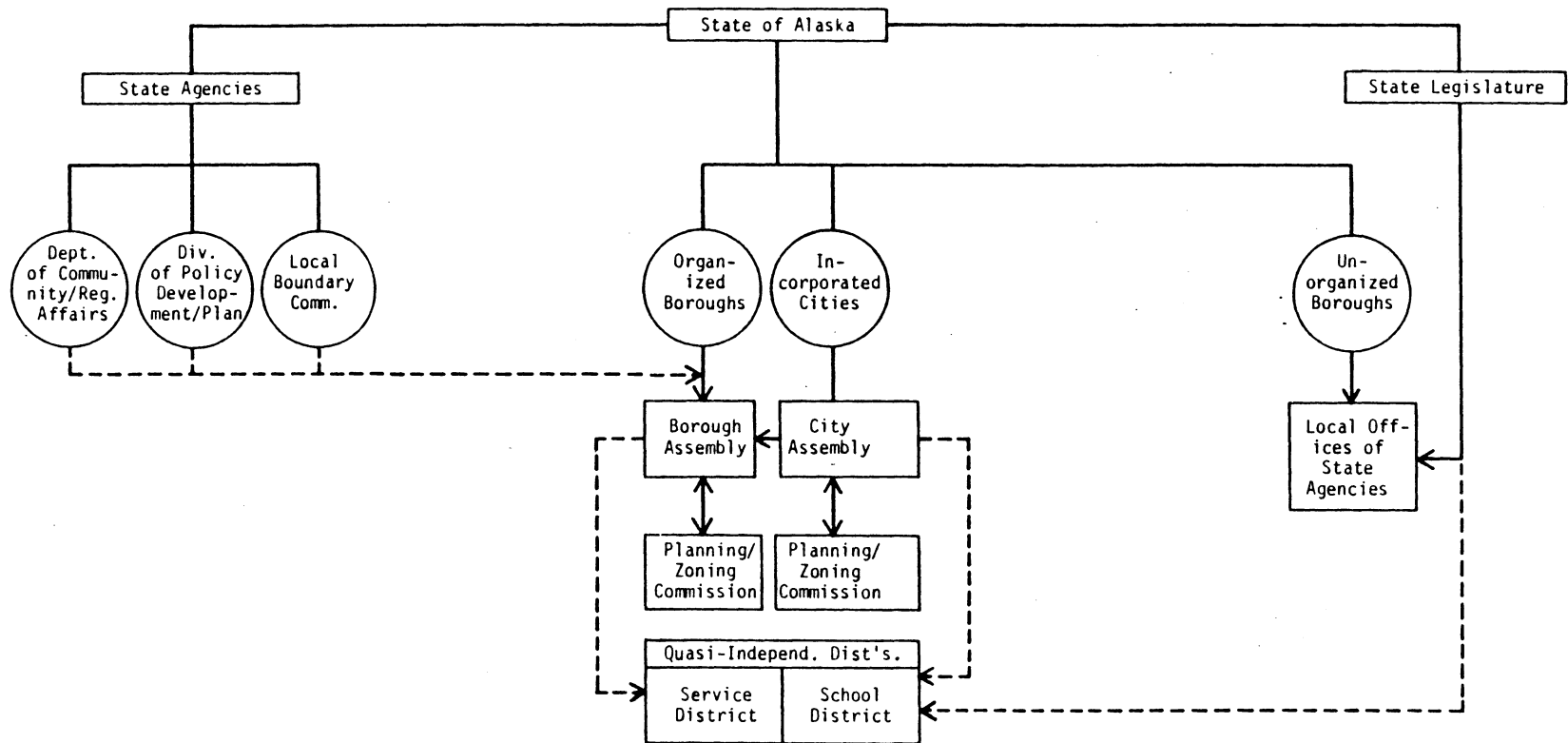


Figure 2

State-Local Interface in Alaska Land Use Control

Advisory Linkage -----
 Statutory/Operational Linkage _____

8. The state is empowered to make local boundary changes through the Local Boundary Commission established by the State Constitution (Art. X, Sec. 12).
9. The State Department of Community and Regional Affairs (formerly the Local Affairs Agency) is a constitutionally established agency designed to advise and assist local governments (Art. X, Sec. 14). This agency performs essentially a regional planning function. The Division of Planning and Research under the office of the Governor performs the state planning function.
10. State and local economies are significantly interdependent--primarily due to land use patterns and resource extraction. Hence, the state can exert economic influences over local governments through land transfers (i.e., municipal selections) and state funded programs.^h

The prospects for building a sound local government system, based upon the framework outlined above, appear to be good. However, the resolve to correct existing deficiencies, to redesign ineffective components, and to reallocate responsibilities where needed, must begin at the state level and then be transmitted to the local level through policy. Morehouse and Fischer make this point rather strongly in the conclusion to their study of Alaska borough government:

The state has never had a sound local affairs policy; nor until recently, has it shown much interest in developing and implementing one. This first became apparent in the years immediately after statehood, when neither the executive nor the legislature were able to cope effectively with the problems of borough formation and the definition of borough roles and purposes. With its new fiscal leverage, the state is now in a position to effect basic alterations in the existing pattern of local government and state-local relations.¹¹

^hThe state continues to fund about sixty percent of all local expenditures.

THE NATIVE ROLE IN ALASKA'S LAND USE FRAMEWORK

While the experiment of borough government continued into the 1970's, another experiment was about to get underway--the Alaska Native Land Claims Settlement. Although a much-debated issue for decades, native land claims did not intrude upon the "white man's" use and exploitation of Alaska's land until 1968, when Secretary of the Interior Udall "froze" disposals of federal land, pending passage of native land claims legislation. Ironically, the native claims to Alaska land and resources were emerging in a fashion similar to, and at the same time as, the realization of the dream of statehood. The symbolism associated with the state's ownership of land--i.e., the removal of federal dominance and the beginning of economic self-sufficiency--was seen as relevant to the native cause. If there was to be any hope for the native people of Alaska taking their place in a modern society, land ownership would be the source of such hope. For centuries, Alaska natives had depended upon the land for their subsistence way of life. As settlement, and eventually urbanization, encroached upon the native life style, the need for native land ownership became apparent.

There was a general recognition, as early as the Alaska Organic Act of 1884, that Alaska's natives held an aboriginal title to all the lands of Alaska. Yet, there was little consideration given to the social, cultural or economic implications which natives might attach to these lands. Not unlike the white man's land ethic, which had evolved through centuries of private ownership and individual property

rights, a similar native land ethic was developing in the 1960's, as the land claims settlement was being debated. The evolving native land ethic, and its underlying stimuli were described by the Federal Field Committee for Development Planning in Alaska in their report on the "Alaska Native and the Land":

The Alaska native has watched the rapid growth of the state without achieving any substantial participation in that growth. Until recently, he has stood on the sidelines not knowing how to achieve a full and equal partnership in the social, political, and economic life of the state. . . . He is now turning to land and land resources as a means of achieving more than a toehold in this twentieth century American civilization. His historic land claims have suddenly become for him the immediate and tangible way to achieve this goal. In this process he also knows that he must achieve full control over his own affairs if he is to be an equal in his own land.¹²

NATIVE LAND OWNERSHIP

With the passage of the Alaska Native Claims Settlement Act (ANCSA) in 1971, Alaska natives were suddenly removed from the "sidelines" of the Alaska growth process and placed squarely in the forefront. The provisions of ANCSA were unparalleled in the history of United States dealings with native tribes (refer to Table 6 for details of the settlement). Aside from its many other implications, ANCSA had a most profound effect upon private land ownership. With their entitlement to 44 million acres of federally owned lands, Alaska's natives will gain ownership title to nearly twelve percent of the land area of the state. As a result, per capita land ownership in Alaska will become the highest of all states. Table 10 shows per

Table 10

Private Land Per Capita in Alaska
and Selected States

State	Acreage Per Capita
Alaska (after ANCSA)	111.9
Alaska (before ANCSA)	2.4
California	2.5
Illinois	3.2
New Jersey (lowest)	0.66
Wyoming (highest before ANCSA)	97.1
Nationwide Average	7.5

SOURCE: Joint Federal-State Land Use Planning Commission for Alaska, "Recommendations for State Lands," Summary sheet and map (Anchorage: Federal-State Land Use Planning Commission for Alaska, 1978), unnumbered.

capita land ownership in Alaska, before and after ANCSA, as compared to other selected states.

In addition to establishing ownership, ANCSA provided for a corporate structure to control the land, resources and monetary assets of the natives. Under the Act, twelve regional corporations (plus a thirteenth regional corporation for non-resident natives) and approximately 220 village corporations were created to hold the land and monetary payments provided for in the Act. Initially, each native enrolled under ANCSA was given 100 shares of corporation stock, and until 1992, when all corporation assets will be distributed to active stockholders, stock ownership is restricted to "enrolled" natives or their heirs and assigns. In 1992, corporation stock becomes "tradeable," both among stockholders and to non-stockholders. In the meantime:

Any patented lands may be sold by the corporations. And since the regional corporations are expected to show reasonable profits, economic development of one kind or another must proceed apace. Thus, the possible exploitation of mineral and forest resources has necessarily taken its place in the minds of many natives, alongside the problems involved with traditional hunting. The conflicts of a people already in the grips of cultural change have inevitably been intensified¹³ (emphasis added)

Hence, as implementation of ANSCA proceeded, the corporations established by the Act were faced with the twin goals of economic development and land selection, both of which held potential benefits and impacts for the state and local municipalities. The native corporations began to compete with the state and boroughs and cities in the selection of land. In many instances, more than one party claimed

the same parcels by "overfiling" on previously selected lands. Settlement of such multiple claims could be accomplished through mutual agreement ("land swaps"), through arbitration by federal agencies, or through litigation. Consequently, the selection of lands by the natives, at times, has been a piecemeal process, where the philosophy of "take what you can get" has frequently superseded formal selection plans or strategies.

In terms of economic development the interests of the natives are a function of four principal concerns:¹⁴

- (1) Protection of the indigenous way of life.
- (2) Employment opportunities.
- (3) Property income; and
- (4) State and local revenues for education, health, welfare, and community development.

Each of these concerns is directly related to land and land use, and each will have an effect upon the native role in the land use framework of Alaska. The pattern of native land ownership and development which will eventually result from the implementation of ANCSA will be curious indeed, and the integration of the native pattern with those of the state and federal governments will be complicated and no doubt frustrating. Miller and Wayburn explain:

Congress has . . . been profligate when it comes to the disposition of the Alaskan land under both the Statehood Act and ANCSA. Largely ignoring its integrity, both of these acts have resulted in the treatment of the Alaska land something like a giant pie to be sliced up into small pieces and passed to everyone who has his hand out. . . . The act not only makes possible, but sometimes obligatory the checkerboard

pattern of land ownerships that has long plagued land planners and administrators.¹³

The underlying causes of the "checkerboard pattern" of native ownership can be summed up, although not simplified, this way: one-half of the 44 million acres granted by ANCSA will go to village corporations, the other half will go to regional corporations. Sub-surface rights to all native lands belong to the twelve regional corporations. Village selected lands are required to be contiguous and in immediate proximity to villages, however, exceptions are allowed for geographical reasons or due to existing ownership patterns. Village selections are subject to review by the regional corporation in which the village is located. Monies received from natural resource royalties are distributed by the regional corporations, and only about one-half of such funds reach the village corporations.

DICHOTOMY OF INTEREST

One result of the above influences upon ownership patterns is the possibility of conflict between village and regional interests. For example, looking at the four concerns listed above, there is a recognizable dichotomy of interest. Village corporations are most interested in obtaining expansion lands and subsistence lands, while regional corporations are more concerned with lands having natural resource value, land that produces profit and jobs for natives. There is some evidence that regional corporations are overriding local concerns about land and selecting high value lands. In addition, "regional corporations have a certain supervisory role, and may

legally withhold funds from village corporations if their proposed projects appear to offer little benefit to the entire region."¹⁶ Hence, the potential for internal conflict is high, and it is certain that such conflict can only serve to further confuse land ownership and land use issues. It is equally as certain that the resulting patterns of native land ownership and development will debilitate efforts to institute uniform land use controls, a situation that will be explored more fully below.

Under the provisions of ANCSA, native lands are exempt from property tax until corporation stock becomes tradeable in 1992, or until the land is developed, sold, or leased. However, native lands lying within incorporated cities or organized boroughs are subject to local zoning and land use control ordinances. These two facts alone may operate to create an undesirable pattern of land use. Local taxing authorities may want to encourage the development of native lands in order to increase tax revenues and to stimulate the local/regional economy. Under these circumstances, concern about land use control may be of secondary importance. The subdivision and development of native lands, under what will surely be minimum local control, could lead to the most horrendous kinds of environmental and socio-culture disruptions. For example, the combination of available land, personal and corporate capital, and a development/investment "sales pitch" has produced among many natives the desire to modernize their villages and their homes.

If they have the money they may build a house that looks like an attractive California suburban home . . . such a house will require a large output of energy to keep it warm. . . . Its neat modern kitchen and dinette will have no room for skinning a caribou or seal. . . . Its lines of support are stretched dangerously thin in a harsh environment. . . . Without fuel, electricity, water, and garbage disposal, such a structure will be unlivable. And how to provide such amenities can be a planner's nightmare (and already is in many of Alaska's communities).¹⁷

In summary, it can be said that the principle effect of ANCSA and the land ownership/land use patterns it will create, is the broadening of the land uses/values which must be considered when attempting to devise a uniform land use control mechanism. For instance, if the state were to institute statewide land use controls, such controls would need to account for the unique life-style of many natives, for subsistence values, for the economic needs and aspirations of natives, and for the needs of local governments. In addition, ANCSA provided native groups with political power historically denied to them. Hence, any comprehensive solutions to land use control problems must be acceptable to the native community. Finally, the importance of Alaska's natives in the existing and future land use framework of the state is assured by virtue of economics:

What the native corporations do with their considerable assets will determine, to a large degree, the cultural and economic future of their shareholders--as well as the rate of development of Alaska's massive resources and the future of the last great wilderness of the United States.¹⁸

THE FEDERAL ROLE IN ALASKA'S LAND USE FRAMEWORK

The introductory chapters of this study detailed the historical role of the federal government in the use and misuse of Alaska's land. With the passage of the Statehood Act and ANCSA, the federal role in Alaska has not been diminished to any substantial degree. The federal government presently owns or controls approximately eighty percent of Alaska's land. As Table 11 shows, even after state and native selections are completed, the federal government will own at least sixty percent of Alaska. Undeniably, the way in which federal lands are used and managed will impact significantly upon state and local efforts to establish uniform/comprehensive land use controls.

"NATIONAL INTEREST" LANDS

The federal role in the Alaska land use framework will be played out on an area of more than 226 million acres--some of the most scenic and resource-rich land in the world. These "national interest" lands will be managed under a collection of federal laws and regulations, including the Alaska National Interest Lands Act (ANILA) which will likely pass Congress in mid-1979. With the passage of the ANILA, federal lands in Alaska will be administered under three general program categories:

- (1) Resource lands;
- (2) Management Systems; and
- (3) Wilderness preservations.

Table 11

Probable Alaska Land Status*

Status	Acres	Percent
Federal:		
Withdrawals prior to ANCSA	76,924,403	20.5
National interest withdrawals under ANCSA (minimum)	80,000,000	21.3
Remaining withdrawals under ANCSA for management by BLM	<u>69,079,277</u>	<u>18.4</u>
Total Federal Lands:	226,003,680	60.2
State:		
Statehood Act Grants	104,300,000	27.8
Natives:		
ANCSA Grants	44,000,000	11.7
Private:		
	<u>1,000,000</u>	<u>0.3</u>
Total of all lands in Alaska:	375,303,680	100.0

*Subsequent to passage of Alaska National Interest Lands legislation.

SOURCE: Joint Federal-State Land Use Planning Commission for Alaska, "Probable Alaska Land Status," mimeographed fact sheet (unpublished), 1978.

Resource lands are those federal lands retained by the federal government in the national interest because of identified or potential resource value--primarily oil, gas and mineral deposits--such as the Petroleum Reserve Number 4.ⁱ Most resource lands are managed by the Bureau of Land Management (BLM) and are available for leasing and various forms of extractive use.

Management system lands are federal lands protected through classification under one of four management systems: National Park System, National Wildlife Refuge System, Wild and Scenic Rivers System, and the National Forest System. These lands are managed by federal agencies, e.g., National Park Service, Wildlife Service, Forest Service, for purposes of conservation and preservation; however, each agency adopts its own regulations concerning the uses of land in each system. Consequently, logging, mining, drilling and resource exploration may occur on lands within each system, consistent with established policies.

The last general category, wilderness preservation lands, are part of the National Wilderness Preservation System which is similar to the management systems discussed above. However, resource

ⁱPetroleum Reserve Number 4, or Naval Petroleum Reserve also Pet-4, was established in 1923 as a 37,000 sq. mile national defense reserve. In June 1977, Pet-4 (renamed Petroleum Reserve in Alaska) was transferred by Congress to the Department of the Interior. Now under the management of the Bureau of Land Management, the reserve is open to private oil, gas and mineral development, under existing laws.

extraction and other major activities, including road construction, are prohibited on wilderness lands. Lands designated as wilderness continue to be managed by the federal department/agency having responsibility prior to the wilderness designation, subject to the provisions of the Wilderness Act of 1964.

Although a myriad of federal laws, regulations and programs are applicable to the lands of Alaska, most uses of federal lands are governed by some rather broad principles such as: "multiple use-sustained yield,"^j "conservation," "preservation," and "national interest." In some cases, these concepts appear to be compatible with the needs of Alaska, while in other cases the battle lines have been drawn, dividing state and federal interests. Here again, in the opinion of many Alaskans, the "outsider" environmentalists, politicians and bureaucrats are attempting to dictate to Alaskans how the land and its resources will be used. Federal intentions are seen by many as idealistic:

In order to secure for the American people of this and future generations an enduring heritage of untrammelled environments in the State of Alaska and to aid in the fulfillment of international conservation commitments of the United States . . .¹⁹

^j"Multiple use" means the management of public lands and resources in the combination that will best meet the present and future needs of the American people. "Sustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use. Federal Land Policy and Management Act of 1976 (Public Law 94-579) 90 STAT. 2743, October 21, 1976.

On the other hand, environmentalists argue that Alaska presents a last opportunity to avoid the disastrous mistakes of the past and to preserve forever the unique ecosystems of Alaska.

One thing is clear with regard to management of federal lands in Alaska. The use or non-use of federal lands will have a profound effect upon state, native and private uses of land, and vice-versa. Many native and state selections abut federal lands, and many federal resource lands are located in environmentally sensitive areas, i.e., outer-continental shelf oil reserves in the seafood-rich areas of Kachemak Bay. Federal ownership patterns could well be disruptive to native subsistence living "to the extent that federal management curtails subsistence activities."²⁰ Consequently there is a need for a land use control mechanism or system that is compatible with the varying needs of federal, state and local governments as well as native and other private land holders.

ECOSYSTEMS AND LAND USE CONTROLS

It has been suggested that the mechanism needed to address Alaska's land use control problems is one which controls the land and its uses through the recognition of ecosystems. This concept is simply a recognition that wildlife, rivers, forests, mountains and other natural resources do not exist in neat packages that fall exclusively in the domain of a single land holder. To be managed properly, according to the ecosystem philosophy, Alaska's lands should be subject to the cooperative efforts of all landholders--federal, state, native, and

private. This concept has been dubbed "cooperative management" and is a key element of the State of Alaska's proposals for settling existing land use and management uncertainties. Alaska's Governor, Jay Hammond, proposed in 1975 that "62 million acres of federal land would be designated as 'Alaska resource lands,' to be managed jointly by the federal and state governments."²¹ In addition, a voluntary cooperative management agreement was proposed for "management on other federal and state-owned land, with private landowners also having the option to include their lands."²²

JOINT FEDERAL-STATE PLANNING AGENCY

Another management proposal made from time-to-time is that a permanent joint federal-state planning agency should be created to oversee public lands and to perform assorted planning functions. Alaskan Senator Mike Gravel has proposed that such a planning agency be given "broad authority to determine 'the highest and best use for all lands in the state, both public and private'."²³ Under this concept, the majority of Alaskan land would be available for resource development through "multiple use." Although not highly popular, these types of proposals are viewed as one method of achieving relative consistency and uniformity in the management of Alaska lands.

The federal government has not embraced the concept of cooperative management; however, some recent events are moving government agencies closer to a cooperative management system. For example, based on the recommendations of the Public Land Law Review Commission, Congress

enacted the Federal Lands Policy and Management Act of 1976 (FLPMA). The Act states:

. . . national interest will best be realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land-use planning process coordinated with other federal and state planning efforts.²⁴

Although a Joint Federal-State Land Use Planning Commission for Alaska was established under provisions of ANCSA, its purposes were limited to the examination of d-2 proposals and collection of data to support proposed withdrawals. The Commission must complete its work and submit its final report to Congress by May 30, 1979, and it ceases to exist on June 30, 1979. Despite the recommendations of the state that the Commission continue its work, there has been little enthusiasm at the federal level for extending its life. During its existence, the Joint Commission accomplished invaluable work in the areas of resource inventory and mapping. Most of the current data available to the state, native corporations, and federal agencies for the assessment of land selections and land use programs is attributable to the Joint Commission. In addition, it has provided a great number of policy recommendations and guidelines to aid major land holders in land selection and land use control. The work of the Commission is highly regarded and it could easily serve as a model for cooperative land management organizations.

Finally, it is interesting to note that the House of Representatives' version of the "Alaska National Interest Lands Conservation Act"

(H.R. 39, May 17, 1978) provided for the establishment of an Alaska Advisory Coordinating Council consisting of representatives from federal and state land/resource agencies, and empowered to conduct studies, draft plans, establish cooperative land management agreements and provide technical assistance to land owners. It is uncertain whether the final version of the Alaska Lands Act will provide for an advisory council of the type described above, however, the establishment of a similar joint council or commission would appear to be in Alaska's future.

In all, the federal role in the Alaska land use framework is a monumental one. Admittedly, the state and native roles discussed earlier in this chapter are significant and involve complicated and confusing issues. However, the federal government must relate its role to such national and global issues as conservation of irreplaceable resources and the protection of unique ecosystems. There is truly a national interest at stake in Alaska and decisions on how lands are used or not used will be of far reaching consequence. The federal government will doubtless play a key part in the balancing of competing interests. Yet, one of the crucial requirements for the future success of Alaska land use programs and land use control efforts is a clarification of the federal role and the removal of debilitating competition within the federal structure. To this end, the passage of Alaska National Interest Lands legislation will serve merely as a beginning.

THE TOTAL FRAMEWORK: A UNIQUE LAND USE INTERFACE

Understanding the land use framework of Alaska is by no means an easy task. This chapter has but touched the surface of a number of complex governmental arrangements and land use/control mechanisms. The principle theme of this brief review, however, is quite simple:

Decisions affecting resource ownership and use pose some of the most important and complex issues for public policy affecting Alaska. The effects of a given policy decision are almost invariably difficult to foresee, and are quite commonly irreversible as well. Difficult trade-offs have to be made among the different social objectives of the various parties involved. The state, nation and natives are only the most obvious of the groups with legitimate interests in Alaska's resources. It is clear that achieving an appropriate balance among all the competing claims will require well-informed and enlightened decision making of the highest order.²⁵

Accordingly, it is not sufficient to simply say that the land use framework and land use control issues in Alaska are complex and confusing. Existing land use control mechanisms must be effectively employed. New methods, techniques and programs must be identified and tested. There must be a willingness to learn from the past mistakes of the "lower 48" and to strike off in new directions, much as the settlers of Alaska have done for more than a century.

The effective interface of governmental units, agencies, land use controls and management programs is the most essential ingredient for insuring the long-range success of land use control in Alaska. In this regard, the State of Alaska has the greatest responsibility for charting future directions. The state has the needed statutory and fiscal resources to fashion an effective land use control mechanism.

The state can serve to balance the equities between local governments and between state and national constituents. The state can fulfill its moral and constitutional obligations by creating a system of land use control which benefits all the people of Alaska.

As traditional land use control mechanisms have failed, and as the deleterious effects of non-policies have eroded the oft talked about American Dream, many states have acted, some out of sheer desperation, to institute state land use control policies. Some of these "experimental" state programs have been more successful than others. However, they all have their own teaching points for those willing to learn. The chapter which follows examines several state land use control policies/mechanisms which have surfaced in recent years and which may well be relevant to the Alaskan circumstance. It is a premise of this study that the State of Alaska must be the leading force behind more effective land use control in the state. Hence, Chapter V is intended to provide some insight into the types of tools the state might employ in creating that "force."

ENDNOTES--CHAPTER IV

- ¹Mike Miller and Peggy Wayburn, The Great Land (San Francisco: Sierra Club Press, 1974), p. 130.
- ²Hugh A. Johnson and Harold T. Jorgenson, The Land Resources of Alaska (New York: University Publishers, 1963), p. 386.
- ³Ibid., p. 387.
- ⁴Thomas A. Morehouse and Victor Fischer, Borough Government in Alaska (Fairbanks: Institute of Social, Economic and Government Research, University of Alaska, 1971), p. 21.
- ⁵Ibid., p. 22.
- ⁶Ibid., p. 23.
- ⁷Alaska, Constitution, as amended 1970, Art. X, Sec. 1.
- ⁸Morehouse and Fischer, p. 75.
- ⁹Ibid., p. 79.
- ¹⁰Ibid., p. 82.
- ¹¹Ibid., pp. 138-139.
- ¹²U.S. Congress, Senate, Committee on Interior and Insular Affairs, Hearings, Alaska Native Land Claims, 90th Congress, 2d Session, 1968, 2906, p. 511.
- ¹³Miller and Wayburn, p. 132.
- ¹⁴Gordon Scott Harrison (ed.), Alaska Public Policy: Current Problems and Issues (Fairbanks: Institute of Social, Economic and Government Research, University of Alaska, 1971), pp. 316-317.

- ¹⁵Miller and Wayburn, pp. 133-134.
- ¹⁶John Hanrahan and Peter Gruenstein, Lost Frontier: The Marketing of Alaska (New York: W. W. Norton and Company, 1977), p. 111.
- ¹⁷Miller and Wayburn, p. 133.
- ¹⁸Hanrahan and Gruenstein, p. 83.
- ¹⁹U.S., Congress, House, Alaska National Interest Lands Conservation Act, H.R. 39, 95th Congress, 2d Session, 1978, p. 6.
- ²⁰David T. Kresge, Thomas A. Morehouse, and George W. Rogers, Issues in Alaska Development (Fairbanks: Institute of Social and Economic Research, University of Alaska, 1970), p. 79.
- ²¹Hanrahan and Gruenstein, p. 258.
- ²²Ibid.
- ²³Ibid., p. 259.
- ²⁴Federal Lands Policy and Management Act of 1976 (Public Law 94-579), Sec. 102 (A)(2).
- ²⁵Kresge, Morehouse and Rogers, p. 80.

Chapter V

ALTERNATIVES FOR STATE LAND USE CONTROL

There is a considerable body of seemingly conclusive research and study that points to the inadequacy of the present land use control efforts of all levels of government--federal, state and local. The "inadequacy" stems largely from the overlap of responsibilities and jurisdictions, and from a lack of consensus on who should perform various land use control functions. As Leonard U. Wilson observes in his discussion of "Coping with Intergovernmental Confusion:"

Our state and local agencies are carrying out federally-mandated programs in transportation, housing, community development, sewer construction, air quality control, recreation, coastal zone management, and industrial development. Federal agencies are operating their own energy, water resource, and land management programs in the states. These programs go forward with little regard for long-term land use consequences. They often work at cross-purposes in their pursuit of competing objectives. Characteristically, there is little effective coordination among the federal agencies or between these agencies and state and local governments.¹

Adding to the policy level confusion alluded to above is the "nuts-and-bolts" level confusion, resulting from decades of inoperative or non-existent land use control by local governments and from the political and economic hegemony of local interests.

Many states have taken action to resolve the confusion which surrounds the governmental role in land use control, by establishing statewide management and control policies. Other states have relied upon federal programs and funds to establish new land use control mechanisms and to modify state-local relationships. In general, there is a growing recognition that a new state role in land use control is emerging. As a study by the Task Force on Natural Resources and Land

Use Information and Technology of the Council of State

Governments concluded:

States are . . . the logical units to assume responsibility for issues of greater than local concern: those problems which transcend the legal authority, the financial capability, or the territorial jurisdiction of a single community. . . . Actions by the states to create statewide or areawide mechanisms for handling those few decisions of broad concern are essential.²

Hence, there appears to be a basis for broadening the state's land use control responsibilities to meet existing and future challenges. The first step, however, is to define more clearly the state's role in land use control and to examine policy and program alternatives for fulfilling that role.

This chapter will briefly examine the components of the state role in land use control, and further how these components are inter-related with the overall land use framework, e.g., how the state role interfaces with federal and local land use control. The role of the state in the Alaskan context is discussed in the light of the background material presented in the preceding chapters. That is, what broad areas of responsibility should the State of Alaska assume, and which general types of programs ought Alaska to consider to meet existing and future land use control needs? In an attempt to answer these and other questions cogent to the Alaskan circumstance, several case examples of states that have devised and implemented new programs in statewide land use control will be briefly examined. Finally, a conceptual outline of the land use control elements which should

constitute the basis for future land use control strategies in Alaska will be presented.

COMPONENTS OF THE STATE ROLE IN LAND USE CONTROL

In their book, The Quiet Revolution in Land Use Control, Fred Bosselman and David Callies discuss in depth the changing land ethic of the United States and the elements of that change which are producing a "revolution" in the control of land use. They see the state as having the pivotal role in this revolution and as the hope for new, more commonly accepted directions in land use control. There is little doubt that the state will be the principal locus of change in land use control as more and more states pursue what many see as a "modest objective:"

The transfer of power to regulate the use of privately owned land from local to state control when regional or state interests are affected by the use to which land is put.³ (emphasis added)

The principle of "greater than local concern" is, in fact, the conceptual basis for the new role of the state in land use control. As Figure 3 shows, this general concept of why the states should be more directly involved with land use control is translated into particular issues or concerns, such as environmental protection, local and state growth, etc. Based upon public desire for more effective land use controls in these specific areas, the state then formulates policies and programs to provide the appropriate level of control/regulation.

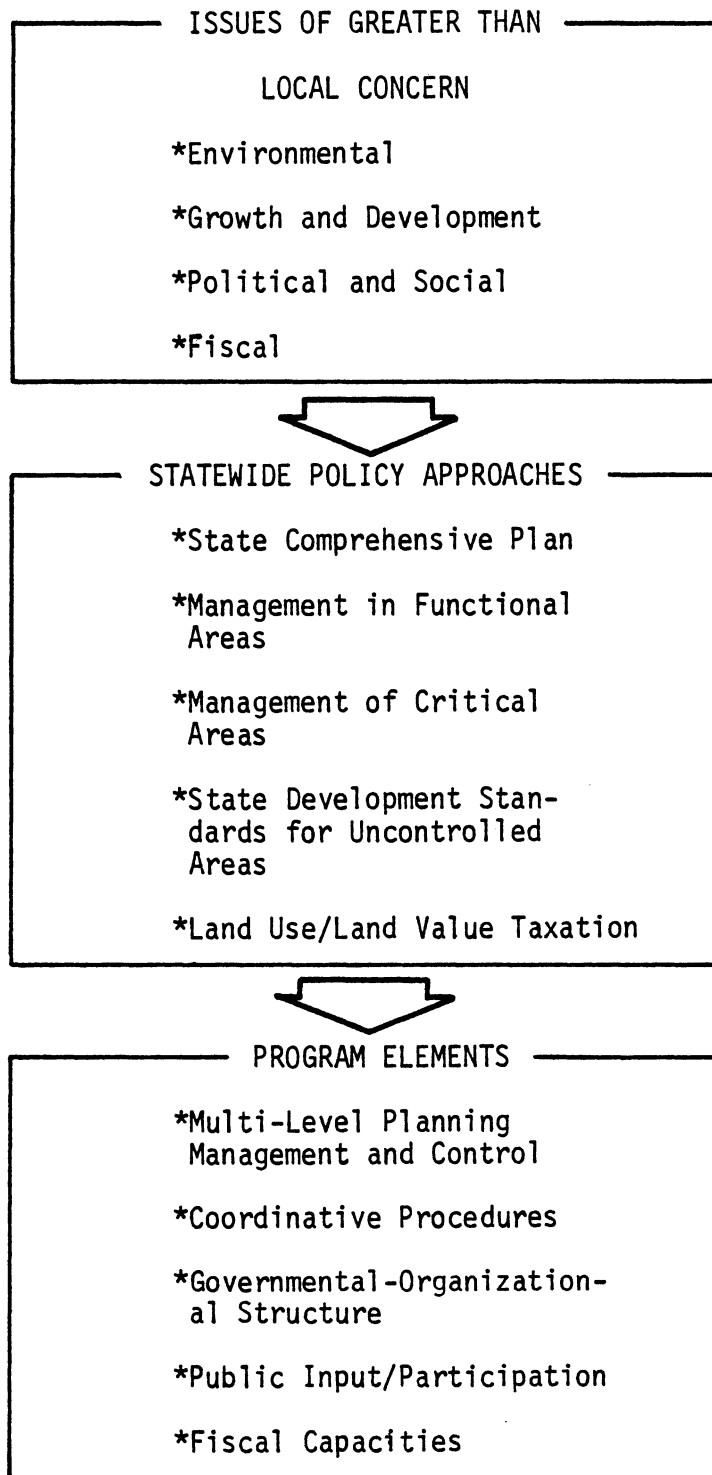


Figure 3

Components of the State Role in Land Use Control

CATEGORIES OF STATEWIDE LAND USE CONTROLS

As the report of the Task Force on Natural Resources and Land Use Information and Technology of the Council of State Governments points out, statewide land use control policies fall into one of four general categories:⁴

1. Statewide, comprehensive land use management.
2. Management of selected activities according to functional criteria.
3. Management of specific geographic or critical environmental areas.
4. Management of uncontrolled areas.

Regardless of which category statewide policies can be placed in, nearly all such policies are a response to a particular problem or set of problems of regional or statewide significance.

In many states land use regulation and control has traditionally been a response to specific pressures or problems germane to particular areas. Notable examples are wetlands management in most coastal states, regulation of surface mining, power plant siting, flood-plain management and designation of critical areas. Many of these programs are narrow in scope, and some are initiated to address only one problem.⁵

However, in addition to responses to particular problems, some states have developed policies and programs to respond to general problem areas, such as rapid growth and industrialization, or to provide for statewide land use planning to correct past deficiencies in local land use control.

In addition to state initiatives in the land use control area, federal laws and programs over the years have operated to encourage,

or in a few instances, to force the adoption of state policies/regulations. Legislation such as the National Environmental Policy Act of 1969, the Federal Water Pollution Control Act of 1972, and the Coastal Zone Management Act of 1972 has created a wave of state programs to control land use and to manage state resources. For example, by 1976, thirty-eight states had adopted strip mining laws/regulations, thirty-four were regulating the siting of energy facilities, thirty were participating in the Coastal Zone Management Program, twenty-six had flood plain protection laws, and twenty-two had laws controlling development in wetland areas.⁶

A NATIONAL LAND USE POLICY

While adopting laws which affect land use control in specific functional or geographic areas, some interest has been expressed in Congress regarding the adoption of a federal land use policy. Several times during the early 1970's, Congress has debated the adoption of such a policy. The most notable effort in this regard was the Senate passed Land Use Policy and Planning Assistance Act (LUPPAA)(S. 268, 1973) which defined "a framework for decision-making to ensure that land use decisions of more than local significance are decided at a greater than local level."⁷ Although the LUPPAA failed to pass the House of Representatives, a number of compromise bills have been offered, and current prospects for enactment of a national land use policy remain uncertain. However, if a national land use policy were adopted the general thrust will undoubtedly remain the same as LUPPAA's, i.e., to assist states

in defining issues/areas of greater than local concern and to provide for the implementation of programs to address such issues/areas as are identified.

This latter area--implementation programs--is important to the definition of a new state role in land use control. Under LUPPAA:⁸

The implementing techniques available to the states take three broad approaches. Any one or a combination of the following could be used by the states:

- (1) State establishment of criteria and standards subject to judicial review and judicial enforcement of local compliance and implementation,
- (2) Direct state land use planning and regulation, and
- (3) State administrative review of local land use plans, regulations, and implementation with full powers to approve or disapprove.

Hence, the adoption of a national land use policy similar to LUPPAA would formalize the actions currently being taken by a number of states on an ad hoc basis. It would reinforce the concept that states should be taking a leading role in land use control. This point will be addressed more fully in the discussion of case examples which follows.

STATE MECHANISMS FOR LAND USE CONTROL: SOME CASE EXAMPLES

Through individual state initiative, specific federal legislation, and a contemplated national land use policy, much of the traditional vagueness surrounding the state's role in land use control is disappearing. There is a far greater consensus on the areas of state responsibility than ever before. Yet, a number of obstacles remain. Some states resent federal intervention in the area of land use

control, while others see only a minimal role for the state in regulating land use. However, the majority of states recognize the need for federal programs in certain areas, and for a broadening of the state's role through federal and state programs. For the majority of states the greatest obstacle to a more effective state role is local resistance to change in the land use framework.

There is a significant difference in land use planning and regulation, as in many other areas, between what a state may do, and what it can actually do, in dealing with its local governments. . . . Regardless of its objectives or procedures, states may encounter conflicts with their local governments wherever these governments are engaged in land use planning and regulation, and in many cases, even where they are not.⁹

The tendency of local governments to resist any major changes in the land use control framework most likely accounts for the variety of policies and programs adopted by the states. The need for political acceptability, if not popularity, in many cases has dictated the form of statewide land use programs.

PROGRAMMATIC CONSIDERATIONS

In addition, there are a number of program considerations which must be addressed when state land use programs are being formulated, and each of these considerations is sensitive to political pressure and manipulation. The most common considerations of this type are:

Development of integrative mechanisms for planning, management and control;

Establishment of administrative/coordinative procedures;

Development of appropriate governmental/organizational structure;

Development of mechanisms for public input/participation; and

Modification or replacement of existing fiscal policies and/or taxing structure.

As statewide programs are formulated and implemented, the way in which these considerations are addressed will begin to impact upon the operational characteristics of land use control agencies and their programs. The problem then becomes one of coordination:

. . . (T)his problem relates to the fact that coordination between levels of interest must focus on specifics, not on generalities, but part of the problem is mechanical, in identifying all of the agencies at all levels of government and all those in the private sector who have a substantive interest in many land use decisions.¹⁰

The need to overcome local objections to statewide land use controls, coupled with the coordinative difficulties cited above, has operated to create a multiplicity of policy and program responses. However, a few states have responded with what might be considered comprehensive controls. The state policies/programs outlined in Table 12 serve as examples of the handful of "comprehensive" programs that exist.^a Each of these state programs will be examined in more detail below.

^aThe term "comprehensive" refers to state programs that employ a broad front approach to land use problems rather than a single purpose program. Although there is no single example of a truly comprehensive program, about a half-dozen states have adopted multi-faceted programs that can be loosely construed as comprehensive.

Table 12

Statewide Land Use Policies/Program--Sample States

State	Problem Area(s)	Type of Response	Legislation
Hawaii	Rapid (22%) growth. Urban sprawl, tourist and recreational development particularly coastal zone. Depletion of agricultural lands.	Create State Land Use Commission. State divided into land categories: conservation, agricultural, rural and urban. Establish department of Planning and Economic Development and Planning Council to develop State Plans. Develop 10 year "Growth Plan" for state.	State Land Use Law (1961, amended in 1967, 1969 and 1973.)
Florida	Rapid (40%) growth, overdevelopment of recreation areas, particularly the coastal zone. Shortage of useable water supplies. Encroachment in critical areas, particularly wetlands, Everglades.	Establish Statewide water management program. Establish Div. of State Planning and statewide planning process.	Florida Comprehensive Planning Act of 1972. Environmental Land and Water Management Act (1972).

Table 12. (cont'd.)

State	Problem Area(s)	Type of Response	Legislation
Florida (cont'd.)		Adoption of state policies to guide growth and development.	Land Conservation Act of 1972.
		Identification of environmentally sensitive areas and open spaces.	Florida Water Resources Act of 1972.
Vermont	Rapid growth. Inadequate zoning/subdivision laws second home and recreational development.	Establish "Environmental Board" and seven regional Commissions to review all major development proposals. Established statewide planning process. Permit system.	Environmental Control Law (Act 250, 1970).
Oregon	Resource extraction, particularly forest products and coal. Heavy recreational use of coastal zones and public lands. Sitings for dams, power stations, etc. Degradation of water resources and critical areas	Establish state Land Conservation and Development Commission. Develop statewide planning goals and guidelines. Review of local plans, zoning and subdivision ordinances. Establish Citizen Involvement Advisory Committee. Designate areas of critical state concern. Permit system.	Land Conservation and Development Act (1973).

SOURCE: American Institute of Planners, Survey of State Land Use Planning Activity, a report prepared for the Department of Housing and Urban Development, Washington, D.C., 1976.

Hawaii

Aside from the somewhat unusual historical land tenure and land use patterns of the Hawaiian Islands, the modern day land use problems of the island state are really quite familiar. Pineapple and sugar production were the early magnets for settlement and investment. Around the time of statehood, however, in-migration was climbing steadily, and tourism became the state's second leading industry behind government and military programs. With the state's rapid growth, urban sprawl began to modify old land use patterns,^b both through the undesirable effects of urbanization and through the conversion of prime agricultural lands to urban and recreational uses. Primarily (although not totally) to protect agricultural lands from further encroachment, the Hawaii legislature passed the State Land Use Law (Act 187) in 1961. The nation's first-ever, statewide land use control program was thus established:

With the primary function of districting and classifying all lands in Hawaii in three categories: conservation, urban and agricultural (a fourth category, rural, was added several years later but has been little used). The law required that after all lands had been so classified--zoned, in effect--classifications and regulations be reviewed "comprehensively" every five years.¹¹

The tasks of classification and review were given to the State Land Use Commission, also established by Act 187.

^bHawaiian lands have traditionally been held by a small number of owners or families of owners, consequently a rather unique system of land leasing has evolved over the years and persists to the present.

The original Land Use Law was amended in 1967, 1969 and 1973, to provide additional elements to the State's land use control program. However, the thrust of the program remains the same today as it was at the time the principal law was passed--to protect the state's agricultural and natural resource lands. Currently, the state has a number of agencies and commissions that assist in the administration of the land use control program. Primary among these are the Department of Planning and Economic Development and the State Planning Council. In addition to advising the State Land Use Commission on the "zoning" of districts, these agencies work to:

. . . guide urban growth for more efficient use of public services and facilities, while permitting reasonable housing, commercial and industrial expansion; and to establish a system for prudent management of the State's natural resources.¹²

The principal administrative elements of the Hawaiian program are:

1. Initial boundaries of the four use districts (zones) were established by the State Land Use Commission in 1964.
2. County zoning regulations determine uses permitted in urban districts. Requests for large scale development must be approved by the State and County. (NOTE: The county is the only unit of local government in Hawaii with full government powers.)
3. The State Land Use Commission regulates the uses of agricultural and rural districts. Other than traditional agricultural uses, only low-density residential and quasi-public uses are permitted in rural districts.
4. Conservation areas are regulated by the state Department of Land and Natural Resources and few development uses are permitted.

5. Only the State Land Use Commission can adjust district boundaries through an annual review process and comprehensive boundary studies every five years. Adjustments are subject to public hearings and other mechanisms to ensure citizen participation.

6. Land owners can dedicate land to agricultural use to take advantage of special tax provisions.

7. Land is taxed at a higher rate than improvements.

Overall, the Hawaiian system has done well in its eighteen years of operation. There have been criticisms of the program, both from those who feel it allows too much development and those who feel it does not allow enough. However, there has been "no legislative challenge arising to its basic structure of four-category zoning and state regulation."¹³ More recent efforts to incorporate the provisions of the National Coastal Zone Management Act in the state land use control system have raised a number of issues of state-county authority to regulate the more specific categories of land use in urban districts. The further "intervention" of the State in these Urban Districts has met with strong resistance from the counties.

Florida

Similar to the Hawaiian Islands, the temperate climate of Florida dictates much of the state's land use. Agriculture, particularly citrus fruit production, has historically been important to Florida's economy. However, unlike the Hawaiian experience, protection of agricultural lands was not the prime impetus behind state land use controls in Florida. Rather, the advent of massive sunbelt migrations in the 1960's produced a near 40% annual growth--nearly 6,000 new

residents per week.¹⁴ Urban development and other intensive land uses had a devastating effect upon Florida's water resources and upon wet-land and coastal zone areas of the state.

As a response to the near crisis proportions of Florida's land use problems, the state legislature passed a number of laws affecting land use within the state. These measures were all enacted in 1972 and include the Environmental Land and Water Management Act, Land Conservation Act, Water Resources Act, and the Florida Comprehensive Planning Act.

. . . Primarily because of conflicts between local governments who were in constant competition for resources (e.g., water) It became apparent that regional concerns had to be elevated to some kind of regional forum and matters of state concern had to be elevated to some kind of then non-existent state forum. . . . state involvement was also encouraged by stresses on the ability of local government to deliver urban services.¹⁵

To overcome these and other land use control deficiencies, the legislation establishing state programs and controls attempted to define a state policy to guide growth and development.

Florida considered the adoption of a Hawaiian-style state zoning policy but rejected the idea in favor of adopting the American Law Institute Model Land Development Code which "gives the state certain regulatory powers in major land use decisions that take on regional or statewide significance due to a development's size or type or a site's special environmental values."¹⁶ The major administrative aspects of the Florida program are:

1. Division of State Planning makes recommendations for areas of critical state concern, which are approved or disapproved by administration Commission composed of the governor and six cabinet members.
2. Within identified critical areas, local governments must adopt specific measures recommended by Division of State Planning.
3. Ten regional planning councils and five water management districts review development proposals which are regional in scope.
4. State Development Plan provides guidelines for city and county land use control efforts.
5. Coastal Coordinating Council reviews development proposals affecting the coastal zone.
6. State land use decisions, i.e., by regional councils, Division of State Planning, etc., may be appealed to the Florida Adjudicatory Commission, composed of the Governor and his cabinet, which has final review authority.
7. The Environmental Land Management Study Committee conducts studies of land use control and growth policy programs and provides a forum for review of critical land use issues.
8. Acquisition funds are available for purchase of critical lands which cannot be effectively managed through indirect controls.
9. Local governments must conduct a comprehensive planning program, or the state may assume local planning responsibilities to include zoning and sub-division.

The reviews of Florida's program have been mixed. One observer

notes:

Implementation of the Florida Law, enactment of which brought volatile confrontations between environmentalists and developers, has proceeded remarkably well, even . . . where foot dragging by local officials triggered the state regulatory takeover provisions.¹⁷

In contrast, Luther J. Carter in his book, The Florida Experience, characterizes the Florida system as "clearly of such mind-boggling complexity as to be scarcely capable of producing satisfactory results overall."¹⁸ However, aside from apparent weaknesses in the Florida land use control program, it is abundantly clear that the present system is more effective than the previous lack of state control. The program provides a good foundation for future programs.

Vermont

Vermont's land use problems are of rather recent vintage, having primarily evolved from rapid growth, highway system expansion and recreation patterns. The mid-1960's saw the completion of major interstate highway systems in the Northeast which increased access to the winter recreation areas of Vermont and stimulated the market for second home development. The lack of effective local land use controls in most areas of the state created severe pollution problems for rivers and streams and allowed the carving up of the state's agricultural and forest lands. A 1968 Municipal Planning and Development Act was adopted to allow emergency interim zoning in areas affected by rapid growth. The Act had little effect upon the devastating process of rapid development.

In 1970, the legislature enacted the State Land Use and Development Law (Act 250) which:

. . . (A)ttempts to minimize the conversion of agricultural land and to forestall the encroachment of development, particularly recreation-related development, upon large tracts of forested, generally inaccessible holdings.¹⁹

The Act created a development permit system to regulate developments of greater than local significance. In addition, the Act established nine state districts for development permit review, created the State Planning Office, and authorized the development of state land use and development capability plans.

The major administrative aspects of the Vermont program are as follows:

1. Development permits are required for projects of 10 units or more, or more than 10 acres (for communities without zoning ordinances, projects involving more than one acre require permits), sub-divisions of five parcels or more, and for all development above 2500 feet.
2. Permit review criteria include air and water pollution, impact of development on school systems, location of flood plains, water supply, sewage disposal, etc.
3. The permit review process is administered by the State Environmental Board, which has final review authority. Appeals to Board decisions can be made to county courts. Appeals to Board or County decisions can be made to the state supreme court.
4. The Land Capability and Development Plan of 1973 provides guidelines which address the quality and pace of developments within the state.
5. Tax laws provide property tax incentives to farmers, and a capital gains tax on land held less than six years is intended to discourage land speculation.

In general, the Vermont program is a "mixture of enforcement and persuasion"²⁰ which has been fairly effective in stemming the tide of uncontrolled growth. The permit system does not appear to be overly cumbersome, nor does the state's administrative (land use control) structure. In summary;

The Vermont Law appears to provide an efficient administrative process in which both local and state interests can participate. The combination of this regulatory process with an extensive planning program offers the potential of a well-reasoned framework for evaluating development proposals.²¹

Oregon

Unlike the state programs outlined above, Oregon's Land Conservation and Development Act of 1973 was not a hasty response to severe land use problems. Although Oregon experienced water pollution problems and some resource management problems during the late 1960's, a concerned response to environmental and resource management problems produced legislation protecting wild rivers, the coastal zone, open spaces and so forth. The Land Conservation and Development Act (LCDA) was more an action to establish state policy and coordination, than a reaction to specific problems.

The principal elements of the LCDA are as follows:

1. The State Land Conservation and Development Commission is empowered to establish statewide goals and guidelines to meet the needs of all levels of government.
2. Planning is conducted at the city and county levels. Local governments which fail to draft comprehensive plans will have plans prepared by the Land Conservation and Development Commission at a cost to the locality.
3. Development permits are required for projects of statewide significance as determined by the Commission.
4. The Commission reviews local zoning and subdivision ordinances and local plans for conformance with state guidelines.
5. Citizen participation in the planning process of the land use control programs is assured through the Citizens Involvement Advisory Committee.

6. The Commission recommends to the legislature designation of areas of critical state concern.

The Oregon system emphasizes programs for guiding growth. In doing so, much of the authority to regulate land use control has been vested in a single body--the land Conservation and Development Commission. However, the thrust of the Commission's duties and responsibilities is toward local governments. That is, the program recognizes the importance of local planning and the role that people play in the planning process.

COASTAL ZONE MANAGEMENT AS A PLANNING CATALYST

The movement toward centralized, state-level land use planning and control has been significantly effected by the Coastal Zone Management Act of 1972 (CZMA). As indicated in the above review of state programs, Hawaii and Oregon have dealt with CZMA as a part of the state's role in land use planning and control. There have been problems, particularly in Hawaii, in using the CZM program to further define state planning objectives and programs, as Mandelker points out:

A variety of political pressures at the state level work against the creation of a fully integrated state planning and land development control system . . . groups maintaining an interest in coastal zone programs are likely to work against any legislative strategy that merges the coastal zone program with wider and comprehensive state land planning . . . (and) will argue for a separate statutory treatment of coastal zone controls that can maintain a high visibility for this program, and assure its adequate and full recognition . . .²²

Yet, CZM provides the kinds of coordinative mechanisms necessary for integrating federal, state and local plans, and, more importantly,

defines the process by which such integration should be guided. In essence, the CZMA defines the framework within which state and local planning/control should occur, but leaves to the states to decide how planning and control responsibilities should be distributed within the state. As noted, at least some states have attempted to capitalize upon this implicit advantage, however, their apparent lack of success "testifies to the programmatic pressures"²³ brought to bear in the state political arena.

As for Alaska, Coastal Zone Management might more easily become the "catalyst" for state land use planning control. In a state where land status and management questions loom so large, and where the search for a management process--i.e., cooperative management--is of high priority, the CZM program provides an attractive and effective method for broadening the state's role in land use planning and control. Whether Alaska will attempt to use CZM as a springboard to more centralized state land use control is unclear; however, it is certain that the management processes and control mechanisms which have resulted from the CZM program will greatly influence the state's approach.

EFFECTIVENESS OF STATE LAND USE CONTROL PROGRAMS

In reviewing the trends in state land use legislation, William Matuszeski concluded that "we have certainly learned that comprehensive state land use laws work."²⁴ In addition, as the above review of state programs demonstrates, success of state land use controls is not confined to a specific variety or model of policies and programs.

Admittedly, all land use programs have particular strengths and weaknesses which might be improved upon. As was pointed out earlier, however, land use control solutions must be politically and socially acceptable if they are to have any chance of success. Hence, judgment of the effectiveness of existing state programs must be done in this context: Is it politically feasible and is it operationally sound in view of the local context?

As more states enter the arena of statewide land use control, the political feasibility of such programs should improve. In addition, the demonstrated success of particular programs should add to their acceptability at the local level. More importantly, however, the advent of a new land use ethic should be paramount in improving the likelihood of effective land use control at the state level. The state role will be defined by public need and demand, not of the desperation variety, but of the concerted, logical variety.

ALASKAN CHOICES: THE BASIS FOR FUTURE LAND USE CONTROL STRATEGIES

When the spectrum of land use controls available to the states is examined, the complexity of land use interrelationships can easily be recognized. Added to these concerns are the political and social realities alluded to above. Finally, in the Alaskan context, a unique body of federal and state laws, policies and programs affects land and land use. In combination, the above factors preclude the application of simplistic or stop-gap land use control mechanisms or programs to the Alaskan circumstance.

Yet, the applicability of certain mechanisms or approaches to specific aspects of the Alaska land use control context must be recognized. There are, for example, a number of striking similarities in the land use histories of Alaska and Hawaii--e.g. native populations, exploitation and colonialism, territorial status, etc. In addition, both Alaska and Hawaii possess unique eco-systems and a great variety of land use values. However, such a comparison points as well to the issue of scale. Could the statewide zoning mechanism employed in the diminutive islands of Hawaii be effective in a state one-fifth the size of the continental United States? Can a single agency or commission operate to control land use for such a vast and varied area; or can regional agencies/commissions deal more effectively with Alaska's land use problems? What are the political and social realities of instituting statewide land use control in Alaska? Can a comprehensive state program be devised that effectively integrates land use management practices, policies, regulations, laws and ordinances from the lowest to the highest levels of government in Alaska?

In searching for answers to the above questions, and a host of others, the basis for any comprehensive land use program in Alaska must first be determined. And, from this basis, land use strategies can be formulated. In short, a statewide land use control program should be formulated only after responsibilities of the state are identified and related to other components of the land use framework.

Finally, the legislative program required to affect statewide land use control should be outlined and political/social acceptability of legislative proposals should be assessed.

In Chapter VI, the elements of statewide land use control program selection, formulation and implementation for Alaska will be examined more closely.

ENDNOTES--CHAPTER V

- ¹Soil Conservation Society of America, Land Use: Tough Choices in Today's World, the proceedings of a national symposium, March 21-24, 1977, Omaha, Nebraska (Anheny, Iowa: Soil Conservation Society of America, 1977), p. 413.
- ²Council of State Governments, Task Force on National Resources and Land Use Information and Technology, Land: State Alternatives for Planning and Management (Lexington: Council of State Governments, 1975), p. 12.
- ³David Listokin (ed.), Land Use Controls: Present Problems and Future Reforms (New Brunswick, N.J.: Center for Urban Policy Research, Rutgers University, 1974), p. 332.
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- ⁸*Ibid.*, p. 21.
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- ¹¹Thomas H. Creighton, The Lands of Hawaii: Their Use and Misuse (Honolulu: The University Press of Hawaii, 1978), p. 68.
- ¹²American Institute of Planners, Research Office, Survey of State Land Use Planning Activity, A report prepared for the Department of HUD (Washington, D.C., 1976), p. 453.

- ¹³Matuszeski, p. 2.
- ¹⁴Council of State Governments, Land Use Policy . . . Number 3: "Organization, Management and Financing of State Land Use Programs," p. 48.
- ¹⁵Ibid., pp. 43-44.
- ¹⁶American Institute of Planners, Survey of State Land Use Planning Activity, A report prepared for the Department of HUD (Washington, D.C., 1976), p. 150.
- ¹⁷Matuszeski, p. 2.
- ¹⁸Luther J. Carter, The Florida Experience: Land and Water Policy in a Growth State (Baltimore: Johns Hopkins University Press, 1974), p. 317.
- ¹⁹Thomas P. Salmon, "Land Use Regulation and Property Tax Relief: The Vermont System," State Planning Issues, Council of State Planning Agencies (1974), p. 5.
- ²⁰Listokin, p. 288.
- ²¹Ibid.
- ²²Daniel R. Mandelker, Environmental and Land Controls Legislation (Indianapolis: Bobbs-Merrill Co., 1976), pp. 404-405.
- ²³Ibid.
- ²⁴Matuszeski, p. 2.

Chapter VI

STATE LAND USE CONTROL FOR ALASKA

The opening chapters of this study focused upon a number of the unique aspects of the Alaska land use context. The vastness of its land area, the colorful and sometimes sad history of land use, the role of "outsiders," and the struggle for political and economic independence provide Alaska with a curious mixture of the past and present. As later chapters have concluded, however, there are many parallels and similarities between the Alaskan circumstance and land use situations elsewhere. Land use control mechanisms employed in other states are indeed applicable to Alaska.

The purpose of this final chapter is to reconcile the "unique" and "similar" aspects of the Alaskan land use context, with a view toward recommending specific elements necessary for the development of a state land use control program for Alaska. In doing so, the state's critical land use control needs will be examined and an attempt will be made to show how these needs can best be met through the implementation of a statewide land use control program.^a The final section of the chapter is devoted to a discussion of the general requirements for implementing a statewide land use control program, and topics pertinent to program formulation and implementation requiring further research and analysis are identified.

^aAs used in this chapter "program" refers to a comprehensive state land use program which provides for centralized control/coordination of the major elements of land use policy.

FOUNDATIONS OF THE PAST AND PRESENT

The basis for any statewide land use control program must assuredly be the foundation of past and present land use practices. Such practices can be a negative impetus for formulating a "new" solution, or they can serve as a positive influence for planned and up-to-date policies and programs. In most instances, as with Alaska, the felt need for a statewide land use control program is probably a mixture of both positive and negative factors. The adverse effects of improper land use control and the general desire to use land more efficiently and effectively (a somewhat amorphous land ethic) quite often combine to form a catalyst for state action. In Florida and Vermont, for example, the impacts of rapid growth and the loss of economic and aesthetic land values were sufficient to prompt state intervention. In Hawaii, the desire to protect agricultural lands and their attendant socio-cultural values was strong enough to elicit state land use control.

Although the topics of land and land use are of daily concern to most Alaskans, as a result of debates over "d-2" legislation, and other similar issues, it is unclear whether residents see a need for state-level land use control. Many state residents feel that the state is simply replacing the federal government in the role of landlord, and that the effects of state ownership will be the same as in the past--too many constraints on development, too much public land, and too much regulation. Yet most Alaskans recognize the need for some form of control to avoid the land use "disasters" of the

"lower 48." Here again, the need is for a balanced approach that will reflect the concerns of "conservationists" and "developmentalists" in a truly comprehensive state land use program. To create such a program, however, the state must fully capitalize upon the elements of its past and present which form the foundation for future land use and land use control.

THE NEED FOR COMPREHENSIVENESS

As noted earlier, there is probably not a single state that has a "comprehensive" land use policy or program. The case studies in Chapter V punctuate the notion that most states that have a state land use policy have sought to address a particular problem or problem-set through state intervention. Although some land use programs are multi-faceted, the state's role in land use control is far from comprehensive. Such programs suffer from the general malaise of government defined by Alfred Heller:

Politicians pay lip service to "coordination" and "comprehensive planning," but no integrated framework exists for making public policy. Furthermore, there are no central, clearly stated, duly adopted public policies or goals; there is no shared vision of what . . . (the state) could become. Private organizations and government agencies continue to establish their own policies, whether or not they conflict with the general public interest. Frequently, programs conflict directly with each other, and the impact of one on another is ignored.¹

As this study has attempted to convey, Alaska has a more highly integrated framework, the type of which Heller speaks, than do most states. The major components of Alaska's governmental structure,

land use framework, and management/planning processes provide a super-structure upon which to build an effective state land use control program. Figure 4 depicts foundational elements and their interrelationships as they have been presented in this study. Although not an exhaustive compilation of all the elements which form the basis for comprehensive land use policies and programs, the elements displayed in Figure 4 are surely the most pivotal in determining the types of policies suitable to the Alaskan Context.

POLICY AND PROGRAM NEEDS

Our review of each of the land use elements displayed in Figure 4 points to a number of specific policy and program needs, which are outlined in Table 13, and are further defined below.

1. Integrative Land Use Information System: A wealth of information exists on Alaska's land and resources. The Joint Federal-State Land Use Planning Commission for Alaska has compiled more than 360 volumes and 900 overlays on a wide variety of land/resource topics. Numerous federal agencies--particularly the Bureau of Land Management--have conducted studies, evaluations and analyses of Alaska land and its uses. And, the state currently has several land information systems, including computerized land selection data files and status plat files, upon which land use analyses and ultimately management decisions are based. Data collections by the United States Geological Survey, Coast and Geodetic Survey, Arctic Environmental

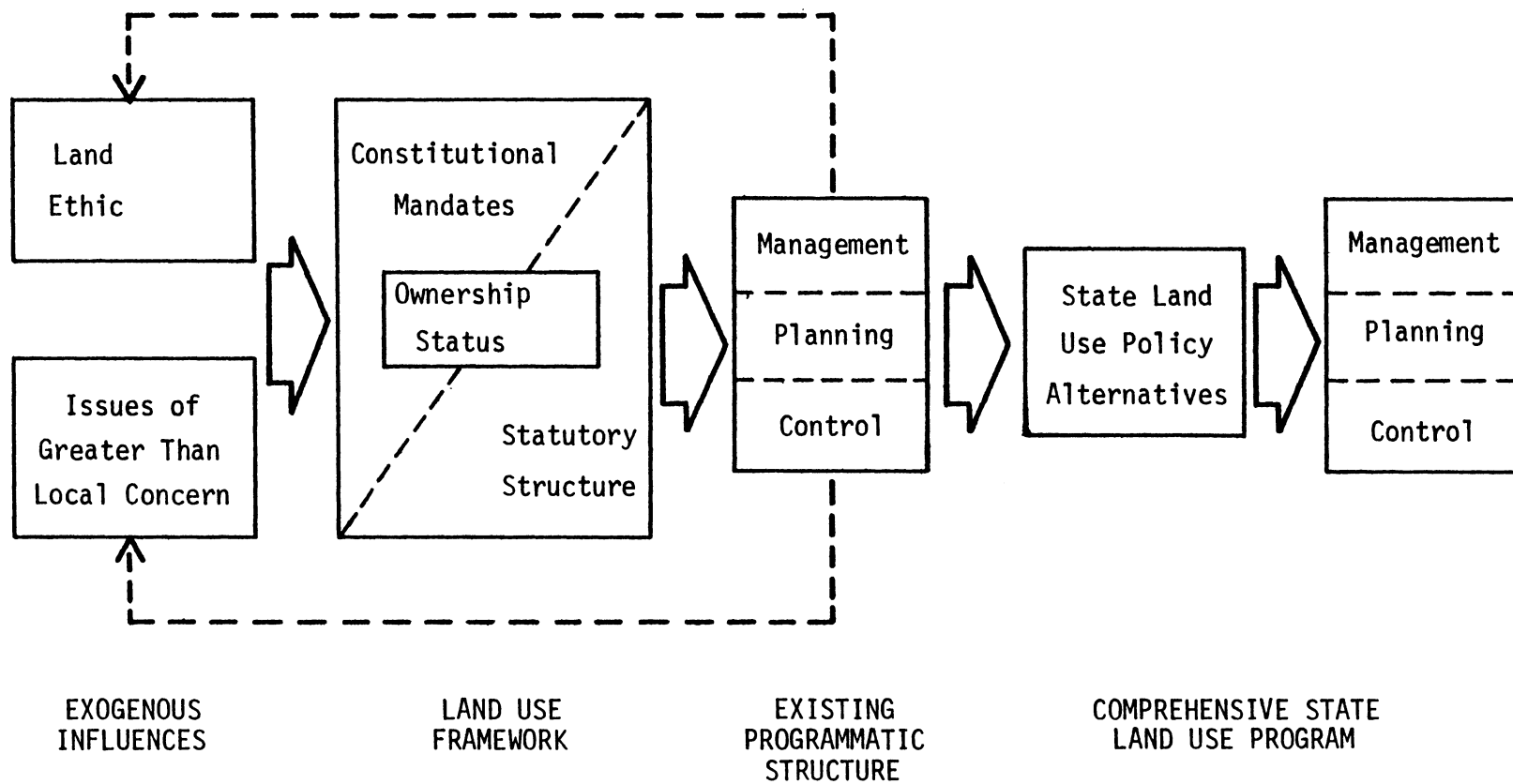


Figure 4
Foundational Elements of Land Use Control in Alaska

Table 13

Land Use Policy and Program Needs of Alaska

LAND STATUS	*Integrative Land Use Information System
	*Land Transfer Mechanisms
LAND USE FRAMEWORK	*Land Classification System Revision
	*Borough Government Reform
	*Improved Community and Regional Assistance
	*Fiscal Policies for Land Use Control
MANAGEMENT PROCESS	*Cooperative Management
PLANNING FRAMEWORK	*Joint Planning Process
	*Improved State Planning
	*Growth and Development Strategies

Information and Data Center,^b remote sensing platforms such as LANDSAT, and local jurisdictions, are all contributing to a massive pool of data available for assisting in policy formulation and decision-making. However, an urgent need exists for integrating this mass of data and information into a uniform and readily accessible data system. Currently, a number of state agencies are refining their data collection and storage techniques, and some pooling of data has occurred. However, a coordinated, comprehensive land use information system is a must if the state hopes to get a clear picture of land status. Such knowledge of land status is essential if the state wishes to formulate sound and effective land use policies.

2. Land Transfer Mechanisms: While Alaska's land ownership questions are continuing to be settled, additional problems are surfacing in the area of land transfers. There appears to be no defined mechanism or set of mechanisms for effecting such transfers. In some instances, coordination does occur among federal agencies, state agencies and native corporations when land is being selected. Such coordination, however, occurs primarily when the land being considered for selection is desired by more than one party, or when some controversy surrounds a particular selection. Conversely, when selected lands are being "re-transferred," i.e., from the state to local

^bThe Arctic Environmental Information and Data Center is a division of the University of Alaska which specializes in the collection and analysis of arctic information.

municipalities, there is also a distinct lack of coordinated transfer mechanisms. Most transfers are negotiated on an ad hoc basis, as are land "swaps," or "trades,"^c with a minimum number of parties being involved. In addition, problems such as "in holdings"^d and boundary disputes serve to complicate further the land transfer process. The state should take a leading role in defining and implementing transfer mechanisms designed to eliminate coordinative weaknesses. Such mechanisms should allow for "joint consideration"^e of selected lands and for greater participation of interested parties, including the public.

3. Land Classification System: The state's constitution and statutes dictate that state land shall be classified in keeping with its "highest and best use." The land classification system employed

^cAs federal land is being transferred to the state, Native corporations and municipalities land in one area is "traded" or "swapped" for land in another area at the request of one of the parties. Such transactions are usually bartering sessions where each party tries to get the most desirable and suitable lands for their individual purposes.

^d"In holdings" are smaller parcels of land, usually private, within the boundaries of a larger, usually public, parcel. Most commonly in holdings occur with the establishment of park, wildlife area, forest and other designated area boundaries which surround existing areas of ownership. Government agencies normally try to purchase or "swap" in holdings to preserve the integrity of public lands.

^e"Joint consideration" is a term used in the Municipal Land Selection Act of 1978, which refers to a meet and confer process designed to insure adequate review of selected lands and their potential best use.

by the state through its Department of Natural Resources^f requires the application of a broad range of considerations, including public input, to each land classification decision. To date, the Department has used the classification system largely as a management tool to implement existing management policies. The problem with such a system, however, is that today's management policies may be gone tomorrow. As Governors change and as administrations change, so too do the policies affecting land classification. Hence, the existing classification system is sensitive to political pressures, to management styles, and to possible manipulation. In addition, and perhaps more important, land classification applies only to state owned lands while they remain in state ownership. Hence, even though land must be classified before it can be transferred or sold, the state exercises little or no control over such lands subsequent to transfer or sale. For example, land classified as "resource" by the state and transferred to a municipality becomes subject to local planning and zoning regulations and upon transfer could immediately be rezoned as residential and sold by the municipality. Such inconsistencies in the land classification system should be addressed and a more rational system adopted. The key objectives of any classification system should be the lessening of the system's political sensitivity and more adequate protection of land values of greater than local significance. It should also be noted that if the state were to consider the adoption of some form of state

^fRefer to Appendix A: Alaska's Land Classification System.

"zoning," the existing land classification system would serve well as a foundation for a more defined, zone-oriented system.

4. Borough Government and Regional Land Use Control: It is fairly obvious that the sheer size of Alaska and its variety and scale of potential land uses dictate the use of sub-state regional entities for controlling land use. Indeed, the borough system adopted in the state constitution was designed to create such regional entities to perform a variety of governmental, planning and land use control functions. It is evident, however, that in a number of ways the borough system has failed to provide the continuity of purpose and action which the framers of the state constitution intended. The rural-urban dichotomy--i.e., the demand for urban services coupled with the desire to preserve rural-frontier values--has operated to lessen the effectiveness of the borough system and to negate the regional impact of land use policies and controls. What has been created is a gerrymandered hodge-podge of local interest planning and zoning instead of a regional land use control mechanism. The borough system is the linchpin of any state policy or program in Alaska. The success or failure of statewide land use control rests with the state's ability to regionalize its authority through the boroughs. In view of the existing governmental framework and the limited size of regional populations it would appear to be unwise to create a system of regional land use commissions--hence, another level of bureaucracy. However, the role of borough governments in the land use control process must be substantially enriched if statewide land use controls are instituted.

5. Community and Regional Assistance: As with the borough system of government, the constitutional mandate providing for state assistance to communities and boroughs (regions) has not been adequately operationalized. After a number of strategic approaches in this area, the state has relegated this function to one of technical assistance and advice. The organizational structure and mission of the Department of Community and Regional Affairs are presently insufficient to provide consistency to the State's efforts to assist local governments. Although the Department could do a more adequate job of assisting local governments in the planning and land use areas, this is not the principal shortfall. The Department should be serving as the coordinating agency for all programs affecting local governments--acting as the umbilical cord between the two levels of government and creating a rapport that presently does not exist. The Department should be helping to create the infrastructure--governmental and economic--needed to carry out and compliment state land use policies and programs.

6. Fiscal Policies Affecting Land Use: Aside from some relatively minor efforts, such as use value taxation of agricultural lands, the state has avoided using its tremendous fiscal advantage to promote land use control. The use of fiscal incentives and disincentives is perhaps the single most effective mechanism for inducing desirable land use controls. Perhaps no other state presently has the existing and potential surplus of funds available as does Alaska. The money from oil and gas leases and royalties, income from other resource lands, and the ninety percent state share of federal resource revenues,

have combined to provide the state with a rather substantial long-term income. However, the ways in which these funds will be spent are still being decided, and to date, there appears to be little interest in changing the fiscal arrangements between the state and local governments. If there is to be any potential for instituting a state land use control program in Alaska, such potential is only as great as the willingness to use state fiscal resources to effect implementation. The state government must be willing to underwrite local and regional economic development and to help equalize the economic disparities between rural and urban areas. At least at the outset, land use control mechanisms adopted at the state level may have to be one-hundred percent state supported. The state should consider establishing conservation and wildlife trust funds for the protection of state "critical areas," and state tax policies should be designed to enhance land use controls, most particularly to stimulate or discourage growth in specific areas/regions. In all, the state's fiscal strength should be used as leverage to push or pull local jurisdictions toward established state guidelines and goals.

7. Cooperative Management: For some time now, the state has pursued the goal of cooperative management. By cooperative management, the state means an arrangement whereby certain designated lands--particularly those of high resource or conservation value--would be managed jointly by two or more parties, i.e., federal, state, Native and/or private land owners. The purpose behind such a system would be to overcome the consequences of the "patchwork" ownership patterns created

by the various land selection processes and governmental regulations. The intent would be to manage lands on an ecosystem or subsystem basis in order to protect existing and future values, and to promote the highest and best use of cooperatively managed lands. It is unclear if cooperative management of federal-state lands will become a reality, since the federal government has been cool on the idea. It is an idea, however, worth pursuing at all levels of government. It is interesting to note that the state has demurred from attempting to establish state-local cooperative management in favor of the joint consideration process outlined in the Municipal Selections Act of 1978. State officials responsible for the transfer of lands to municipalities seem to feel that state land use guidelines should be mandated or attached conditionally to transferred lands. Cooperative management should become part of the state land use programs, and it should be, as nearly as possible, an integrative mechanism of control functioning upward to the federal level and downward to the local level.

8. Joint Planning Process: The formation of the Joint Federal-State Land Use Planning Commission for Alaska pursuant to ANCSA has been a boon for Alaska. Aside from the data collection and analysis functions discussed above, the Commission has served as a sounding board for new ideas and proposals and has provided a forum for the discussion and resolution of Alaska's complicated land use questions. The Commission has greatly assisted the state in the formulation of land selection and interim land use strategies, while at the same time, providing advice and recommendations to the Secretary of the Interior

on Alaska land policy. The Commission has been fortunate in being able to range far and wide in the policy and program areas, as well as the areas of research, data collection and evaluation. Although the Commission will be dissolved in June of 1979, there is a continuing effort at the state level to interest the federal government in participating in some form of joint land use planning commission beyond the 1979 cutoff date. At best, the state will most likely have to settle for participation in the Advisory Coordinating Council proposed in the Alaska National Interest Lands Act.⁹ However, joint planning, at least conceptually, should be vigorously pursued as part of Alaska's land use control program. Here again, as with cooperative management, the state should be seeking to establish integrative mechanisms which allow information/activities to flow upward to the federal level and downward to the local level.

9. State Planning Activities and Programs: The state has a relatively solid base of planning organizations and programs. The Division of Policy Development and Planning is the lead agency in the development of state land use policy and the identification of state goals and objectives. The Division is part of the Office of the Governor and performs a number of policy development and planning functions related to land use. Yet, there appears to be a problem in

⁹The Alaska National Interest Lands Conservation Act (HR 39) proposed by the 95th Congress provides for the creation of an Advisory Coordinating Council for Alaska consisting of the head of the Alaska offices of federal agencies, representatives of the state of Alaska and two Native representatives.

translating the Division's plans and policies into workable programs. Here again, the planning framework is in place, but it lacks the dynamism necessary to elicit action at the regional or local level. Although some preliminary work has been done on state goals and objectives, the state lacks a defined direction and continues to plan without a coordinated, comprehensive strategy. The need in this area is for a regionalized planning process that utilizes local and regional planning bodies more effectively. Here, as in a number of other areas, specific legislation should be adopted to add more "teeth" to the state's land use planning and control programs.

10. Growth and Development Strategies: Alaska is attempting to formulate growth and development strategies as part of state goals and objectives. The Alaska Department of Commerce and Economic Development oversees the state's economic development activities and addresses major issues such as unemployment, rural development, and resource development. At present, the Department is attempting to deal with the economic and developmental disparities which exist between urban and regional areas. Along these same lines, the Alaska Growth Policy Council is addressing growth and development issues pertinent to the formulation of state policies, including land use policies. In the past, these two organizations have been greatly aided by the Alaska Public Forum, a statewide public forum created to help identify critical state problems and strategy alternatives. The principal need in this area is for a set of coordinating policies which can relate growth and development strategies to the state's land use programs. Growth

strategies and development programs should be used as stimulants for effective land use control. Economic development programs should be tailored to the needs of local jurisdictions and should be coordinated with regional and local land use plans. Growth and development strategies should also reflect state fiscal policies related to land use control.

POLICY AND PROGRAM ELEMENTS

Chapter V outlined the policy and program elements important to the state's role in land use control. In view of the policy/program needs detailed above, the elements most pertinent to the Alaskan circumstance are:

- * State Comprehensive Plan
- * Mechanisms for coordination/integration of land use policies/programs.
- * Strengthened governmental/organizational structure.
- * Strengthened fiscal capacity--particularly at the lower level.

These elements should form the core of any state land use program adopted by Alaska, and each element should provide a basis for specific policies for statewide land use control. The policy/program recommendations which best compliment the above listed elements will be discussed in detail below.

POLICY AND PROGRAM RECOMMENDATIONS

This study has emphasized the difficulty which exists in pinpointing "solutions" to Alaska's land use control problems. Indeed, the complexity of land use issues and the virulence of lingering land

use problems remain as the greatest obstacles to the development of effective statewide land use control. However, we should not be dissuaded from attempting specificity in our proposed solutions.

In the final analysis of the information presented in this study, a number of areas are evident as the critical points in the Alaska land use process. If a "comprehensive" land use control program is in Alaska's future, these areas must command the attention of legislators, planners, administrators and the general public. The areas recommended for such consideration are as follows:

I. Alaska State Land Use Commission

The Legislature should create the Alaska State Land Use Commission as the principal land use planning and policy coordinating agency of the state. The Commission should have quasi-legislative authority to regulate land use throughout the state, and should be the focal point for the integration of all state policies, programs and management processes affecting land use and land use control. The Commission should adopt and periodically update a state land use plan with appropriate goals and objectives upon which to build the state's land use program. The Commission should have responsibility for:

- (a) land use data collection and information systems;
- (b) land use policy development;
- (c) establishment of state development standards and guidelines;
- (d) establishment of staffing guidelines; and
- (e) coordination of citizen participation programs for land use policy formulation and strategy assessment.

The principal efforts of the Commission should be directed toward the integration of state and local land use controls through the use of statutory authority, fiscal incentives and sanctions, and cooperative planning and management.

II. Strengthening of Boroughs as Regional Bodies

The borough system should emphasize the use of regional state authority. Boroughs should be treated as sub-state regions and should administer state land use programs on a regional basis. The infrastructure and funds necessary to support state land use programs should be distributed on a regional basis, and the state planning process should be regionalized. Boroughs should serve as the conduit for state land use policy, and as the interface between state and local programs. The state should provide boroughs with the fiscal capacity to extend services and necessary controls on an equitable basis throughout the region. Special attention should be given to the needs of rural areas and the mechanisms needed to balance competing land uses.

III. Economic Development Corporations

The state should underwrite a system of economic development corporations. In conjunction with the state fiscal policies related to land use (e.g., a conservation trust fund), economic development corporations should serve as the chief monetary mechanism for achieving state land use control. Development corporations should be established at the state, regional, and local levels with startup funds provided by the state and federal governments. The statewide system should be

similar to the Native corporation structure created by ANCSA. Qualifying jurisdictions should be given a block grant of funds for capitalization based upon compliance with state land use policies/programs. Land and resource development activities should form the basis for economic development within established constraints with all Alaskans sharing in the benefits derived from public lands and resources. Economic development corporations can be used to provide an equitable distribution of such benefits, and at the same time to promote the economic vitality of the state, its regions, and localities.

IV. Increased Political Equity

The state must act to obviate the political inequities between rural and urban areas. Rural areas must be given more control over their political destinies, and in turn, be allowed to participate more fully in state land use decisions. The balancing of equity in this case requires the consideration of rural values, to include subsistence life styles, and calls for people-oriented land use planning and control. Solutions appropriate to Alaska's urban centers should not be imposed upon rural communities or regions. The strengthening of the borough government system and localized economic development will help to promote increased political equity. However, much of the solution in this area rests with policy and program formulation. That is, state land use policies must account for differing rural-urban values and attempt to capitalize upon both. State assistance in land use planning and control to local communities and boroughs should be increased through additional grants-in-aid.

V. Cooperative Management Overlays

In lieu of state "zoning," Alaska should adopt a cooperative management overlay system. Areas identified as having greater than local value should be so designated by the state land use commission and placed on "restrictive land use" overlays. Lands falling within these areas would be subject to mandatory cooperative management by affected parties--governmental and private. The overlay technique would be used in conjunction with state, regional and local land use plans, and with additional appropriate mechanisms, such as purchase/transfer of development rights, and so forth. The principal thrust of the overlay system should be to promote positive management, not simply to provide negative control.

STRATEGIES AND REALITIES

The above listed recommendations are a summary of the base-level changes required to facilitate the adoption of a state land use control program for Alaska. Admittedly, the difficult part of such proposals is implementation--getting the right laws on the books, the appropriate agencies and programs in place and making them work. Nevertheless, the difficulty of such tasks should not constrain our thinking, nor should it dampen enthusiasm for testing theories, concepts and strategies against a complicated array of problems.

The value of the foregoing study lies in the questioning and pondering of numerous weighty issues. The recommendations offered are but a single strategy in a sea of potential strategies, and they must be

weighed against existing political realities in Alaska. Although present circumstances do not appear conducive to the adoption of a statewide land use program in the near future, political winds change quickly, and it is not inconceivable that such a program could be adopted within the next five or six years. In the meantime, the surface issues raised by this study should be more fully explored and numerous strategies examined in an effort to prepare for the eventuality of an expanded state role in land use control.

NARROWING THE SCOPE OF INQUIRY

This study has employed a rather broad brush approach to Alaskan land use issues. Significant amounts of background information were presented in an effort to provide the reader with a feel for the magnitude of the issues and problems. Further study in this area should begin at a more finite level and attempt to deal with specific elements of Alaska's land use system. Single issues, such as local economic development, rural political equity, planning and management processes, and specific land use control mechanisms, should be explored in relation to the Alaskan land use context. More needs to be known about the specific role of the federal government and local governments in a state land use program. Data are needed to support recommendations for specific control mechanisms and management policies. The operational and implementational mechanisms required to support statewide land use control in Alaska need to be identified and closely examined, as does the concept of phasing state land use programs to meet changing land use requirements.

As the land status questions and management process questions surrounding Alaska's lands are settled one-by-one, more will be known about the direction of Alaska in the land use policy area. Additionally, future research such as suggested above will benefit from the increased clarity of the state's role in land use control. In the meantime, the broad issues presented in this study should be refined and improved upon.

ENDNOTES--CHAPTER VI

- ¹Alfred Heller, The California Tomorrow Plan (Los Altos, CA: William Kaufmann, Inc., 1971), p. 24.

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APPENDIX A

ALASKA'S LAND CLASSIFICATION SYSTEM

ALASKA'S LAND CLASSIFICATION SYSTEM

Under provisions of the Alaska Land Act (169 SLA 1959) the Department of Natural Resources is authorized to classify state lands for retention by the state or for disposal. Lands are classified through the preparation of area plans in accordance with the Land Act and through public hearings. Lands are classified for their "highest and best use" in one of the following categories:

LANDS RETAINED PERMANENTLY IN STATE OWNERSHIP

Mineral Lands

Lands that are chiefly valuable for minerals, including but not limited to coal, phosphate, oil shale, sodium, sulphur, and potash, and where the removal of the mineral would seriously interfere with surface rights. Mineral removal is allowed by lease or staked claim in accordance with Division regulations. The land may also be leased for purposes other than the removal of minerals if consistent with the public interest.

Material Lands

Lands chiefly valuable for materials, including but not limited to sand, gravel, stone, pumice, cinders, and clay, and where the removal of the materials would seriously interfere with surface utilization. Materials may be purchased and removed in accordance with Division regulations. The land may also be leased for purposes other than the removal of material if consistent with the basic purpose.

Timber Lands

Lands which, because of physical, climatic, and vegetative conditions are presently or potentially valuable chiefly for the production of timber and other forest products. The timber may be purchased and removed in accordance with Division regulations under a sustained yield program. The land may also be leased for other purposes when consistent with multiple use management of forest lands.

Grazing Lands

Lands having physical and climatic features that make them primarily useful for the pasturing of domestic livestock. For lease only.

Public Recreation Lands

Lands which may be utilized best by the public for parks, scenic overlooks, campgrounds, historic sites, hunting and fishing access sites, etc. They may be leased for other purposes provided the contemplated use is consistent with the primary purpose. Leases are subject to such restrictions as are deemed necessary to protect public recreational use.

Watershed Lands

Lands encompassing a drainage area which can best be utilized as a public water source. They may be leased only for purposes consistent with the public interest in accordance with Division regulations.

Reserved Use Lands

Lands designated for present or future public use, for the use of

government agencies, or for the development of townsites. They may be disposed of only to a government or quasi-government agency.

LANDS AVAILABLE FOR DISPOSAL (SALE OR LEASE)

Agricultural Lands

Lands having physical, climatic, and economic features that make them suitable primarily for the production of agricultural crops. The land may be disposed of by lease, sale, or homesteading.

Commercial Lands

Lands which because of location, physical features, or adjacent developments, can best be utilized for commercial purposes. The land may be disposed of by lease or sale.

Residential Lands

Lands which, because of location, physical features, or adjacent development, may best be utilized for single or multiple unit dwellings. The land may be disposed of by lease or sale.

Utility Lands

Lands which may be suitable for a variety of uses but which do not lend themselves to classification under the other designations. The land may be disposed of by lease or sale for any purpose.

Industrial Lands

Lands which because of location, physical features, or adjacent

developments, can be utilized for industrial purposes. The land may be disposed of by lease or sale.

Private Recreation Lands

Lands which are chiefly valuable as outdoor rural areas and may best be utilized for private noncommercial development such as summer cabins, camps, etc. The land may be disposed of by lease or sale.

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LAND USE AND LANDSCAPES: THE FUTURE
OF ALASKA LAND USE CONTROL

by

Raymond Richard Mann

(ABSTRACT)

The role of the state in land use control was examined in general, and in relation to the land use context of Alaska. The study provides a brief overview of the history of land ownership and land control in Alaska as well as the particular difficulties attendant to the control and management of lands in Alaska. The types of land use control mechanisms and strategies available to Alaska, and their applicability to the Alaska context are examined through case studies of land use programs in Hawaii, Florida, Vermont and Oregon. Finally, the elements of Alaska's land use framework are identified in order to provide insight into the types of land use controls which might form the basis for a state land use control program for Alaska. The study concludes by offering a number of specific recommendations on the actions required to create a viable, comprehensive state land use program for Alaska.