

SCOMM

#22:11



Federal-State
Land Use Planning Commission
For Alaska

May 19, 1978

Director (210)
Bureau of Land Management
U.S. Department of the Interior
Washington, D.C. 20240

Dear Sir:

This correspondence is written to communicate our comments regarding the Bureau's discussion package for preproposed rulemaking under Sections 201 and 202 of the Federal Land Policy and Management Act and regarding the Bureau's interim management and study process for wilderness designation pursuant to Section 603 of FLPMA.

We believe that both proposals contain many excellent features and represent a careful effort by the Bureau to restructure its policies in light of the Congressional directives contained in FLPMA. Moreover, we would like to compliment the Bureau on its efforts to obtain meaningful public participation with respect to both proposals. Our comments in this correspondence relate to those areas which, in our opinion, raise problems that merit further Bureau consideration.

Inventory and Planning Proposal

Our comments are as follows:

1. While we recognize the need for flexibility in the administration of the public resource lands, we think that the inventory and planning proposal should specify in more detail the consequences of designating an area in accordance with the various categories and subcategories provided in the discussion package. Thus, in our opinion, the major uses which would be allowed or prohibited in a particular category, such as wildlife habitat, should be indicated. Otherwise, too much discretion is vested in individual BLM personnel, with the possible result that areas with similar characteristics will be treated differently. Also, the failure to specify major consequences will make the public participation process less meaningful. These matters are dealt with in greater detail in the enclosed correspondence which was transmitted to Assistance Secretary Guy Martin on May 3, 1978.

2. Recognizing that the Bureau's manpower and money are limited, we think that the inventory and planning proposal should indicate the kinds of areas that will receive priority attention - for example, areas of critical environmental or economic concern or areas of Alaska where disposal will be permitted under those public land laws which, under FLPMA, remain operative here until October 1986. In our opinion, the issue of prioritization is a major policy matter. In the absence of an explicit articulation, the public will be denied the opportunity to participate in the determination of priorities, and the Bureau's internal decision making process may be less comprehensive and systematic.
3. We recognize that the retention orientation contained in Section 102(a)(1) of FLPMA must necessarily govern future Bureau decision making, and that the retention-disposal issue probably will be dealt with in other sets of regulations. Nevertheless, we believe that the expression of Congressional policy contained in Section 102(a)(1) is so important that it should also be stated explicitly in the Bureau's planning and inventory regulations, particularly since the Bureau's historic mission was principally to dispose of Federal lands. In our opinion, the need for such an articulation of policy is especially important in Alaska, where the repealers in FLPMA do not become operative with respect to certain settlement and occupancy laws until 1986.
4. The disclaimer contained in Section 701(g)(6) of FLPMA regarding the grant of lands to the states suggests to us that the planning regulations should be explicitly related to the requirements of the Alaska Statehood Act. At present, Alaska has an unfulfilled selection entitlement of over 30 million acres. Many existing public land orders pertaining to Alaska preclude future State selection in the absence of further classification. Unlike the statehood acts of other western states, the Alaska Statehood Act permits the selection of vacant, unappropriated, and unreserved public lands, wherever located. In the absence of amendatory legislation of the type now contained in Title VIII of H.R. 39, the State's selection rights will expire at the end of 1984--well before the inventory and planning process is likely to be completed with respect to Alaska. Therefore, we believe strongly that provisions must be promulgated which will permit the State to satisfy its statutory entitlement.
5. The Commission has long believed that the intermixture of Federal, State, and privately owned lands in Alaska necessitates a cooperative approach to land use planning and management. This matter has been dealt with in a number of Commission publications, excerpts from which are enclosed for your ready reference. Within the context of the Bureau's inventory and planning regulations, we see an opportunity for the development of mechanisms designed to facilitate compatible planning and management of adjoining Federal,

State, and private lands. While the recently executed agreement between the Bureau and the State of Alaska represents a significant step in this regard, we believe that further action should also be taken. Accordingly, we suggested to Assistant Secretary Martin in the correspondence which is attached that additional steps be taken to develop compatible planning mechanisms, including the establishment of a test area where a cooperative approach can be implemented on the ground.

6. We suggest that the planning regulations contain appropriate cross-references to the review and appellate processes provided in other Bureau regulations, such as those relating to entries and other actions under the public land laws. Such cross-references would give additional notice to those adversely affected by Bureau planning decisions that a formal review process does in fact exist.
7. We believe that the regulations should define key terms and, to the maximum extent possible, should avoid the use of jargon unfamiliar to layman. With respect to the first point, we suggest that additional guidance be given with respect to the term "emergency." In our opinion, such a definition is particularly necessary, because a finding of this condition permits a short-circuiting of the planning process.

Wilderness Proposals

Much of Alaska qualifies for wilderness study and designation pursuant to criteria provided in the Wilderness Act of 1964. This situation presents unique opportunities for the protection of large areas that are currently untouched by man, but it also emphasizes the need to develop interim management and review procedures which take cognizance of the various impacts that may result from such an encompassing study process. The Commission has had a long standing interest in the designation of wilderness areas in Alaska. This interest is reflected in prior Commission recommendations to Congress, some of which have been excerpted and enclosed for your ready reference. Also enclosed for your review is a staff study which considers wilderness designation in Alaska on a comprehensive statewide basis and also sets forth some of the management and study alternatives which are available.

Our specific comments with respect to the Bureau's wilderness proposals are as follows:

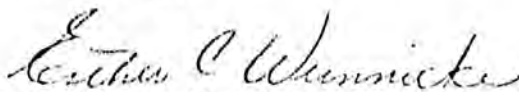
1. While we recognize that there are ambiguities in Section 603 of FLPMA, we question whether the interim wilderness management policy can restrict otherwise lawful activity on existing mining claims. Under the 1872 mining law, the holder of an unpatented mining claim has a right to increase the level of his assessment work and to make the transition from exploration to development and production. The interim policy appears to curtail this right. In our opinion,

such a curtailment which could last many years, would probably not be construed as a reasonable regulation, but rather as a taking. If so, the interim policy might well contravene applicable due process requirements.

2. We believe that the interim management policy should be better related to provisions of the Alaska Statehood Act. As now written, the policy would preclude future state selections except in areas previously withdrawn pursuant to Section 11 of the Alaska Native Claims Settlement Act. Yet, as indicated previously, the State has an unsatisfied land entitlement of over 30 million acres. While pending legislation (H.R. 39) seeks to clarify the relationship between the Statehood Act and FLPMA, prospects for passage of this bill are uncertain. This circumstance, together with the current termination date of 1984 for State selections, emphasizes the need to develop a wilderness review process which takes cognizance of the Statehood Act. While the Commission has long supported the designation or appropriated areas as wilderness, we have also been very supportive of the State's effort to fulfill its land entitlement under the Statehood Act. In the absence of appropriate regulatory provisions, selection opportunities might be lost, particularly since the wilderness proposal indicates that the study process will not be commenced in Alaska until the land ownership pattern is more certain. (A primary contributing factor to continuing uncertainty about future land ownership patterns would be an interim management policy which precludes future State selections.)
3. To the extent that a determination respecting wilderness nonsuitability involves an exercise of discretion, the wilderness study proposal should allow for the preparation of an environmental assessment or impact statement, is appropriate. While some such determinations will involve the mechanical application of the 5,000 acre criterion, others may be more discretionary in nature. For example, decisions about whether existing development should remove an area from the wilderness study process or about how to draw the boundaries of a proposed study area may not be totally mechanical.

In closing, we want to thank you for this opportunity to participate in the Bureau's rulemaking process. If we can be of any further assistance with respect to your consideration of the two proposals discussed herein, particularly as these proposals relate to lands in Alaska, please let us know.

Sincerely,



Esther C. Wunnicke
Federal Co-Chairman

Sincerely,



Walter B. Parker
State Co-Chairman

Enclosure: (1)

1. Excerpts from Commission publications
2. Commission recommendations to Congress
3. Staff Study on Wilderness

cc: Honorable Guy R. Martin
Assistant Secretary



Federal-State
Land Use Planning Commission
For Alaska

May 3, 1978

Honorable Guy R. Martin
Assistant Secretary
Land and Water Resources
Dept. of Interior
Room 6616
Washington, D.C. 20240

RE: BLM land planning regulations - suggested case study to test and evaluate planning categories.

Dear Guy:

As Esther mentioned during our discussion while she was last in Washington, the Commission believes it would be valuable both in the development of FLPMA planning regulations and in the current revision of the State land classification system to conduct a pilot study of a joint planning area, using a single set of planning categories for federal and state lands. We are writing to explain the basis of this proposal and to ask for Department of Interior participation in a sample area study.

One of the Commission's long-standing recommendations has been for the use of compatible planning and classification systems by Federal and State governments. Use of a "common language" of categories seems essential in shifting the focus in regional planning from boundaries of different ownerships to the overall character of the region. Of equal importance, the Commission believes that communication with other governmental agencies and with the public in general is greatly improved if the planning agency has a pre-established system of planning or classification categories that spell out alternative management policies for groups of compatible uses. By seeing the alternatives as a clear-cut, well defined set of categories, the public can debate the applicability of one or another category to a specific area and talk about boundary adjustments. Such categories should range from a settlement impact category, through resource development and primary use categories, to a category that would maintain the land as wilderness.

As you know, the existing BLM management framework plan system does not employ planning and classification categories, but, instead, allows the BLM district manager to decide allowable uses and management policy for

each area after considering social and economic factors and the merits of various resource policies advocated by different resource specialists. Public input is invited, but, since each area is treated individually, the public and other agencies are handicapped in their participation because the alternatives are not defined ahead of time. Without an established set of categories which has been used in many areas, it is difficult to compare management experience in one area with another and to offer comment on this basis.

The "discussion package" for the regulations seems to repeat this traditional management framework plan approach. Though the draft refers to "categories and subcategories" of public land and resource use as "general groupings of land and resource uses," it then goes on to list such categories as single uses; i.e., grazing, mineral development, timber, etc. The one exception to this orientation towards individual resource uses is a category for intensive land use for agriculture, commercial, industrial and urban expansion. As the planning process is described in the draft, there are several stages where policies for each "category," or to be more accurate, each resource, are developed. First, national policies for each use are developed. Then alternative policies for each use are defined as they would be applied to the planning area. Then, at the implementation stage, more specific management programs are developed for individual uses. In summary, under this system the Bureau develops across the board policies for individual resources, rather than policies defining a range of alternative levels and kinds of management which could be applied to different areas of the region. Without policies for various kinds of area management, the choice about the combination of permitted uses in different cases is left to the discretion of the individual manager on a case-by-case basis.

We suggest that the use of area management categories should at least be tested. This approach is common in urban and county planning and zoning where open communication with the public and similar treatment of similar situations is essential. In regulating private property, the categorical approach is a long accepted and workable method.

In discussing the use of regulatory categories with BLM officials, we frequently hear that such a system would not allow the necessary flexibility; one set of categories could not be used nation-wide. These are concerns that must be addressed, but their validity depends on the level of detail of the categories. We think that it would be possible to develop a basic set of regional categories ranging from no development to intensive development which would cover the spectrum of possibilities. The accommodation of regional variations could be achieved in the choice of applicable categories, and there should be some flexibility for preparation of specific implementation plans which would accommodate area-by-area differences. At any rate, we suggest that this different approach to Federal land planning is worth a test.

We are aware that the State Director, Alaska and the Governor are in the process of preparing an agreement for cooperative planning in accordance with FLPMA, and that the State and Federal Governments are cooperating in planning for the Federal public lands in the haul road corridor. We have reviewed a preliminary draft of the agreement and fully support these useful and constructive measures. The testing of compatible planning categories in an area where, unlike the haul road corridor, Federal and State ownership is intermixed would be a step towards implementing the general directives for cooperation included in the pending agreement. We feel it is a step that should be taken now before the BLM land planning regulations are finalized.

The State of Alaska is in the process of revising its classification system and has offered to participate in a case study of joint classification in areas where State lands are intermingled with Federal lands. The Commission is willing to serve as the coordinator of such a project, developing a program, suggesting an area of mutual Federal and State interest, and working with Federal and State personnel to draft a preliminary set of categories which could be tested in the case area.

If the BLM participates, we would like to involve personnel who would be directly involved in drafting the regulations. The point of the study should be to give the regulatory drafting process a basis of objective experience. With adequate preparation before the case study, only several days in Alaska would be required. Would the BLM be willing to participate in such a project? And, if so, what time frame would be workable from your point of view?

Sincerely,



Esther C. Wunnicke
Federal Co-Chairman

Sincerely,



Walter B. Parker
State Co-Chairman

cc: Curtis V. McVee, State Director
Alaska Bureau of Land Management

REPORT OF THE

JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA

COOPERATIVE PLANNING, MANAGEMENT, AND ORGANIZATION

With some five years of first hand experience, the Joint Federal-State Land Use Planning Commission for Alaska remains concerned about Federal-State, intra and interagency cooperative planning and management that occurs in Alaska. After staff work, investigation by a subcommittee, and intensive outside review, the Commission, at its meeting of September 15 and 16, adopted the following recommendations.

The discussion of the recommendation is divided into four parts. First, the basic reasons for cooperative planning and management; second, the reasons for a joint Federal-State commission; third, the powers; and fourth, the organization that such a commission would have. An appendix has been added to the report which translates the Commission recommendation into legislative language. A bibliography is also attached.

I. Reasons for Cooperative Management

Basic reasons for cooperative planning and management in Alaska include:

1. There is a continuing State-Federal relationship. This did not begin and will not end with the disposition of the d-2 lands.
2. The land ownership pattern in Alaska is growing evermore complex as a consequence of the implementation of the Alaska Statehood Act and the Alaska Native Claims Settlement Act. Lands owned by the Federal government, the State, Native corporations, and other parties lie adjacent to each other in tracts of varying size which do not necessarily follow rational boundary lines. This intermixture of land ownership can easily jeopardize prudent management. A systematic approach to resources which are similar but owned by different parties must be initiated to insure consistent and complementary management.
3. Private and State lands may be the essential buffer zone for certain of the more sensitive areas in Federal control. In other cases, the Federal government will own and regulate the mountain tops while the valleys are in State control, or the Federal government will have the wild and primitive areas while State lands will contain the people. Cooperative management is essential to protect the commonality of interest and to protect the national interest.

4. Resources have been divided by mixed ownership across the surface of the land, and between the surface and subsurface. The State, for example, owns the bed of navigable waterways and tidelands, while the water column within the Federal withdrawals will be controlled by various State and Federal regulations and may be subject to claim under the Federal Reserve Water Rights Doctrine. Ownership of the land surface and the underlying minerals may also be split between private owners and Federal agencies.
5. Migratory wildlife, e.g., caribou, waterfowl, etc., require extensive habitat that will occur on all land ownerships. Habitat must be maintained, and movement must remain free if these species are to survive.
6. Even if parks or refuges are contained ecosystems to the extent possible, there will be elements of the ecosystem that cannot be contained in area boundaries. Protection of entire ecosystems, and the full use of new knowledge about those systems will require extensive cooperation.
7. Issues may have a local significance but are actually regional, statewide or national, and they must be approached from that perspective. These include: (a) Outer Continental Shelf programs; (b) Coastal Zone Management; (c) international fisheries management; (d) marine mammals; (e) energy development; (f) fish and game management; (g) transportation; (h) wilderness study; (i) research; and (j) information systems.
8. The social, economic, and land use interweave is more fundamental in Alaska than in states with a more developed infrastructure. Any change can have an effect across the State.
9. National parks will become destination points for tourists. The State will be called upon to provide access and other infrastructure outside the parks. Close coordination and planning will be necessary to permit the State to provide these services without harmful impacts.
10. Ownership of land in Alaska is concentrated in government and corporate hands. Thus, there is no "grass roots" force to develop means of cooperation.
11. There are extensive federally owned areas in Alaska which remain largely in their natural state, and have natural values that are clearly of national importance. Nonrenewable and renewable resources found on these lands are largely unevaluated, and their possible importance in meeting future national and international needs for energy, minerals, wood

fiber, and food cannot be accurately estimated at this time. The existing Commission has recommended this area be placed in a new classification called Alaska National Lands. Decisions regarding these lands must be made cooperatively, within a national context over time.

12. Land exchanges between Federal and State governments or between governments and Native corporations may offer a viable solution to certain problems. Cooperative planning is needed to provide the broader perspective to undertake such exchanges.

II. Reasons for a Federal-State Commission for Alaska

The trend in Federal programs over the last 15 or so years has been toward greater State-Federal cooperation. Many programs or statutes permit or require cooperation, including Coastal Zone Management, Sikes Act, BLM Organic Act, etc. These and earlier programs such as the river basin commissions have had degrees of success or failure for various reasons. The new joint Federal-State commission in Alaska is designed to enhance the national interest and is particularly important for the following reasons.

1. Alaska is unique in being a one-state region as well as a state in which few land use patterns are set. Alaska offers an opportunity to attempt a vital, close, and unique effort in State-Federal cooperation. Thus, State-Federal cooperative planning and management may be evaluated in isolation from problems which emerge from multistate jurisdictions.
2. A joint Federal-State activity will provide a mechanism to which both the Federal (President, Secretary of Interior, Congress, etc.) and the State government (Governor, Fish and Game Commission, Legislature, etc.) may relate and which will institutionalize communications between the many interests.
3. Many of the decisions to be made in Alaska are too important, too big to be made within the mission of a single agency or even department. A joint commission will provide an umbrella agency allowing a nondepartmental, cross-functional area review, and a joint planning and coordination that must occur.
4. The existing record of many agencies in cooperative management is simply not very good. There are tools in existing laws which may be used in cooperative planning and management, but each lacks a third party, a motivating force to insure that dialogue takes place, and, as appropriate, is acted upon. A joint Federal-State commission provides both the vehicle; stimulating Federal-State, interagency, and interdepartmental cooperation in and across functional areas such as transportation and fish and game, and energy and parks, and a means of unifying diverse elements into a coherent whole.

5. One of the major functions of any commission is to provide a public forum for the direct expression of ideas so issues and problems may not be hidden or ignored by line agencies.
6. State participation on the commission will also insure a meaningful State role in the governmental interface with Alaska citizens. In the absence of such participation, the Federal government would interact alone with private citizens, and many State responsibilities and regulatory approaches could be overlooked in the process. As a consequence, a traditional adjunct of American federalism might be jeopardized.

Should the State of Alaska decide not to join in a Federal-State effort, the Land Use Planning Commission recommends that a Federal commission be established which would coordinate Federal activities with particular emphasis on Alaska National Lands and such functional areas as transportation, fish and game management, research, information systems, and wilderness studies.

III. Powers

In order to carry out its intergovernmental, interagency, cooperative planning and management role, the Commission will need a certain limited range of powers.

"Donation" or "Matching" of Lands

Before proceeding with the discussion of "Powers," it is important to note that neither Federal nor State government is giving up, contributing, or donating land. Each is delegating only a portion of its regulatory authority and that subject to a veto by designated officials of the respective governments.

Joint Classification Areas

When land transfers are completed, there will be intermingled Federal, State, and local governmental and private ownership of numerous areas with key natural resources. Whether the public interest is best served by protection of natural values, by the development of needed resources or an appropriate blending, cooperative planning will be essential. With coordination, Federal, State, and private interests can all be served more compatibly; without it, conflicts may be aggravated and all interests frustrated. In those key areas, called Joint Classification Areas or JCAs, where the various interests are similar or complementary, land classification should be conducted jointly by the proposed Federal-State commission. General authority could be granted by Congress and the Alaska Legislature to the commission as part of its comprehensive planning function to identify JCAs and to classify the land.

JCAs would not encompass lands within or recommended as additions to the existing Federal land management systems. The State may also have sound reasons for reserving exclusive control over certain lands, and these would not be incorporated in JCAs. The prerogatives of the different governments should be further preserved by giving each government veto power within its sphere of ownership over joint commission classifications.

Private Lands

Cooperation of private landowners with the State and Federal government will be important in many areas. The commission should have the authority to include private lands in JCAs with the consent of the landholder.

Alaska National Lands

The existing Commission has recommended that Congress establish a new classification system to be called Alaska National Lands. Units of these lands are to be under the day-to-day management of one of the existing Federal agencies, but the Commission would be empowered within guidelines established by Congress to classify these lands. Even if Congress does not create Alaska National Lands, the other powers in this section will be needed if meaningful State-Federal cooperative planning and management is to become a reality.

Should Congress not establish the Alaska National Lands classification, there will remain a demanding need for a joint classification authority to work with JCAs.

Advisory Duties

The new commission should be empowered to continue the advisory functions of the present Commission. Specifically, the commission should be authorized to make recommendations to appropriate officials of both governments with respect to:

- ways to improve coordination and consultation in wildlife management, transportation planning, wilderness review, informative systems, research and other activities requiring regional or statewide coordination.
- programs and budgets of Federal and State agencies responsible for administration of public lands in Alaska.

Should an agency elect not to follow a commission recommendation, that agency shall, within 30 calendar days from the date of receipt of the recommendation, provide the commission a detailed, written report stating in full the reasons for rejecting the recommendation.

Operating Procedures

To avoid the complications of two sets of regulations, State and Federal, which differ, the commission should be authorized to establish its own personnel, property, procedural, etc., rules and regulations.

IV. Organization

Commission Structure

After discussion of several alternatives, the Land Use Planning Commission recommends the following structure for a future commission.

1. The commission should be created for a period of 10 years. This time frame will permit the general land ownership pattern to be set or certainly to become less fluid, and will provide the time for a number of important decisions to be made. While it is unlikely that the need for cooperative planning and management will decrease during this time, a congressional review should be provided for by statute to occur during the eighth year of the commission's work. This review would cover the first seven years of experience, would redirect the commission's work if necessary, and would recommend whatever actions are deemed appropriate upon expiration of the commission's mandate two years later. Thus, the commission would have a built-in "sunset" provision.
2. As indicated under Powers, there is to be a Federal veto over actions affecting Federal lands, and a similar veto provision for State lands. As actions move from the purely advisory mandate of the existing Commission to the classification authority of a new commission, the veto power should reside with the President and Governor. In the event of a veto, the appropriate official shall provide concurrent with the veto a written report stating in detail the reasons for such action.
3. The commission would consist of ten members, all of which would serve at the pleasure of the appointing official. The President would appoint a full-time Federal co-chairman, and four part-time commissioners.

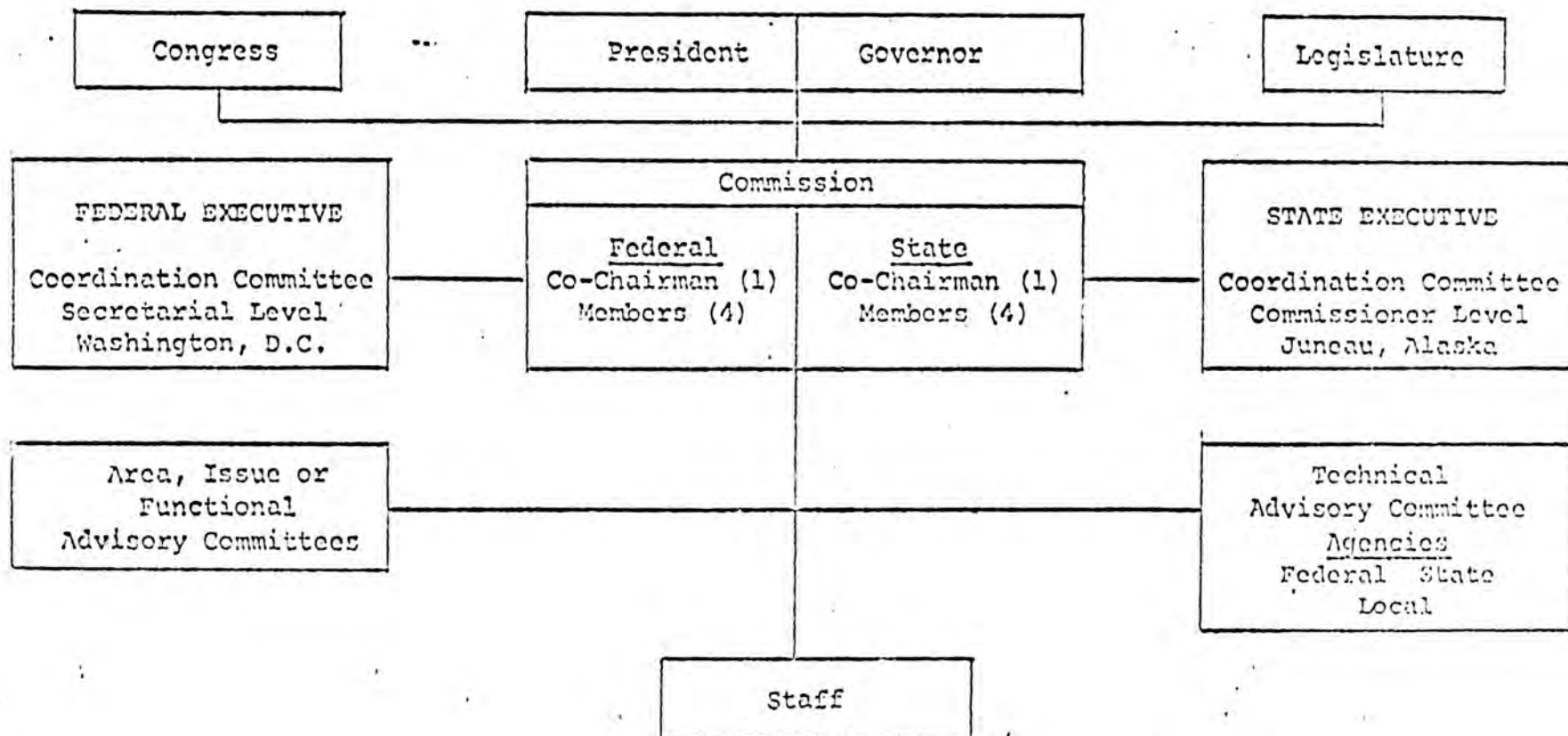
An equal number of commissioners, including a full-time co-chairman, would be appointed by the Governor.

Qualifications for Federal members should be established, if possible, which will insure a national perspective. State member qualification should be established by State statute. With respect to both Federal and State members, the subcommittee recommended that appointments not be ex officio or institutional, i.e., State commissioners or Federal department

or agency heads. It was also recommended that appointments not be representatives of special interest groups. The subcommittee felt that special interest representation tends to institutionalize conflict rather than contribute to problem solution.

4. In all matters, the commission should be authorized to advise and work directly with the President, Governor, Presidential and Gubernatorial appointees, Congress, and the Legislature.
5. The commission should have a standing Technical Advisory committee consisting of the heads of Federal agencies with land related responsibilities in Alaska and their State counterparts. Other advisory committees or task forces should be appointed as needed on either an area, issue, or functional basis.
6. In order to assure a mutual understanding of joint problems, to develop common policy, and to insure that plans are implemented in the field, a Federal Executive Coordination Committee should be established in Washington at the Secretarial level. This committee would meet periodically in order to coordinate those programs and functions of their respective agencies which could affect administration of the lands and waters in Alaska.
7. A State Executive Coordination Committee should be established at the commissioner level by the Governor as the State's counterpart to the Federal Committee. This Committee would also meet periodically to coordinate those programs and functions wherever necessary to insure successful cooperative planning and management, and which interface with Federal lands and interest.
8. The commission's budget should be funded one-half by each government.

JOINT FEDERAL-STATE
COOPERATIVE PLANNING AND MANAGEMENT



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A FEDERAL-STATE ENTITY

1. Statement of Issue

Should such an entity be created? If so, what should be its makeup and authority?

When land transfers under the Alaska Native Claims Settlement Act and the Alaska Statehood Act are complete, Federal, State and private land managers, particularly Alaska Native corporations, will own lands in every region of Alaska. With the expiration of the Joint Federal-State Land Use Planning Commission there will be no continuing, formal entity in which Federal and State governments participate.

2. Background

It will be some time before land ownerships and management regimes in Alaska are finally established. At present there is need to reduce the present over-selection of Native lands in some regions. Also undetermined at this time is the location of the remaining 35-million-acre selection entitlement of the State of Alaska which need not be completed until 1984. Another element of uncertainty is the determination of the navigability of inland lakes and streams. This factor, alone, may result in significant State ownership of submerged lands within the d-2 lands now under consideration.

The policies, management objectives, and management authorities of the Federal land managing agencies differ. There are also differences among State land and resource managers, to say nothing of differences between public land managers and Native corporate land managers.

The land ownership patterns themselves often do not follow natural or ecological boundaries. Many of the resources, particularly wildlife, migrate from one ownership or one management unit to another irrespective of boundaries.

With few exceptions most Federal lands in Alaska are areas of concurrent jurisdiction between the Federal and State governments with respect to the exercise of the police power of the State. With liberal construction by the courts of the delegated powers of the Federal government and the provision in Article VI of the United States Constitution that the laws of the United States made in pursuance thereof are the supreme law of the land, and the further power of the United States Government under Article IV of the Constitution to enact laws dealing with Federal lands, as recently exemplified in the case of New Mexico v. Kleppe, there is

continuing potential for conflict between Federal and State regulatory and managing authorities.

As pointed out in the paper on cooperative management there are many cooperative agreements between Federal agencies and often between Federal and State agencies dealing with a single subject-matter or a single geographic area. The structure of the Alaska State government allows coordinative effort through the Division of Policy Development and Planning and various cabinet level task forces appointed for specific issues. The ability of the Federal government to coordinate activities at the Washington level is less apparent.

If Congress creates an entity classification of designated Federal and State lands whose management and land use may be closely inter-related could be delegated to it. There may also be need to place some lands under the management of such an entity.

3. Alternatives

- a. Create no entity and rely on existing coordinative tools leaving classification and management to each government and designated agencies within it.
- b. Create a Federal entity in Alaska with a corresponding entity at the national level to coordinate land use planning and management of Federal land managers in Alaska. (An entity similar to the Presidents Review Committee which was established in Washington, D.C. when the Federal Field Committee for Development Planning in Alaska was established in Alaska could be proposed.) Rely upon a similar state body for corresponding coordination of planning and management of State lands and the regulation of private lands.
- c. Create a Federal-State entity to provide planning and policy direction for Federal and State land classification and management in any of a number of combinations.
 1. Lands. Place designated Federal and State lands under the new entity. These could include:
 - o the so-called fifth system Reserve lands designated by Congress out of the present d-2 withdrawal lands,
 - o some or all of the remaining Federal lands now under
 - o lands to be designated by the State.
 2. Authority. The entity could be granted authority;
 - o only to plan and coordinate;
 - o only to classify lands under its mandate;
 - o to designate managers and provide management guidelines,
 - o to manage designated lands or any combination of these authorities

3. Composition. The entity could be limited to Federal and State representation or could provide for representation by representatives of local governments or Native corporate landowners. It can be a large or small Board or Commission with staffing dependant upon its delegated authority and responsibility. Because of the sovereign nature of the Federal and State landowners a veto perhaps should be provided with the Federal government holding a veto power over actions affecting Federal lands and the State government holding a veto power over actions affecting State lands.

A FIFTH SYSTEM

1. Statement of Issue

Is there a need to create a new land classification and/or management agency in Alaska?

In addition to lands which unquestionably meet the criteria for inclusion as Alaska units of the National Park, National Wildlife Refuge, National Forest and Wild and Scenic Rivers systems there are other Federal lands of national interest which do not readily fit within existing systems.

2. Background

Three nationwide management systems -- National Park Service, U. S. Forest Service, and U. S. Fish and Wildlife Service -- are named as potential managers of the d-2 lands. The fourth system -- Wild and Scenic Rivers -- is not a management but a classification system which takes its management from the adjacent land manager. Each of the agencies has some classification authority for the lands under its jurisdiction, as well as the full proprietary authority of the Federal government over lands owned by it. Each may have areas within a management unit designated wilderness areas under the Wilderness Act.

The National Park Service classified lands within national parks into natural, historic and recreational categories. National Park "natural areas", exemplified in Alaska by the present Mount McKinley National Park and Katmai and Glacier Bay National Monuments, are managed to place primary emphasis on the preservation of natural features, and use or management conflicts are resolved in favor of the protection of natural, scenic, wildlife or historical values. In Park Service "natural areas" mining and hunting are not allowed.

The U.S. Forest Service manages under concepts of multiple use and sustained yield allowing mining under the 1872 Mining Law and hunting with seasons, bag limits, methods and means of harvest set by ADF&G. Forest Service lands in Alaska, are also subject to the 400,000-acre selection entitlement of the State of Alaska under the Alaska Statehood Act.

The U.S. Fish and Wildlife Service is dedicated to wildlife conservation and rehabilitation. Uses compatible with this primary objective may be permitted including mineral leasing, hunting, fishing and trapping, for example. Basically all such acts are prohibited unless permitted. D-2 refuges will be created by Congress and not by Executive Order, as those in Alaska in the past have been. The Federal-State relationship with respect to resident game management is a major issue with respect to placing additional large mammal habitat areas under Fish and Wildlife Service management.

The effect of designation of a Wild and Scenic River depends upon which of three categories is used. Wild Rivers are to be free of impoundments with rivers essentially in a primitive state and inaccessible except by trail. Scenic rivers are also free of impoundments and largely primitive but accessible in places by roads. Recreational rivers are accessible by road or railroad many have some development along their shorelines, and may have undergone some impoundment or diversion in the past. Of chief concern to Alaska is the effect of this classification upon hunting, fishing and other subsistence activities, as well as the use of rivers for transport.

The Bureau of Land Management has interim managing authority over the d-2 lands, those withdrawn for Native selection, surface management of NPR 4, and Federal lands withdrawn for classification - the d-1 lands. The recently passed Federal Land Policy and Management Act of 1976 confirms BLM management on the basis of "multiple use and sustained yield" unless otherwise specified by law. The general policy of the Act also directs retention in Federal ownership in most instances. However, the repealer of the homestead laws, for example, in the rest of the nation does not apply in Alaska for ten years. Mining on BLM lands is conducted under the 1872 Mining Law, and seasons, bag limits, methods and means of harvest for hunting are set by ADF&G. BLM's new organic act gives the agency enforcement and closure authority on lands under its jurisdiction.

With the denial of some uses or the ability to prohibit all uses unless they are compatible with the wildlife values to be protected, the National Park Service and the U.S. Fish and Wildlife Service are able to provide the intensive management to critical areas of apparent national interest value. Neither service's management, however, is flexible enough to allow it to respond to multiple demands for land use.

In addition to lands which unquestionably meet the criteria for inclusion as Alaska units of the National Park, National Wildlife Refuge, National Forest and Wild and Scenic Rivers systems, there are other Federal lands which:

- are in Federal public ownership
- contain natural scenic values
- contain wildlife habitats
- contain geological, botanical, zoological, ecological, archaeological, or historical features
- minerals, timber, range or other commercial, valuable resources
- have significant relationship to adjoining state or private landholdings necessitating area-wide planning

3. Alternatives

- a. Place all lands in d-2 withdrawals in one of the conservation systems - National Parks, Wildlife Refuges, Forests or Wild and Scenic Rivers.
- b. Place Federal lands not included in one of the conservation systems into d-1 category for classification by the Bureau of Land Management. After proper classification disposal may be made through:
 - i. selection by the State of Alaska under the Statehood Act
 - ii. application of the 1872 Mining Law or the Homestead Act and other public land laws which apply in Alaska for ten years.
- c. Place Federal lands not included in one of the conservation systems in a Federal land reserve category under management by the Bureau of Land Management under the organic Act. The Reserve status would:
 - i. prohibit disposal by State selection
 - ii. prohibit disposal under the public land laws.
- d. Restructure an existing agency, or create a new Federal agency, with classification and management responsibilities for all, or most, of the d-2 lands.
- e. Create a new classification entity:
 - i. with land management authority in classification entity
 - ii. with land management delegated to an existing "line" agency
 - iii. establishment by Congress of basic management rules within which classifications must occur
 - a. such as a permit and lease system for mineral exploration or development
 - b. a lease system for grazing or farming
 - c. transportation planning and environmental analysis
 - iv. establishment of basic rules by the classification entity

(for more detail on management systems see Management Systems background paper.)

COOPERATIVE MANAGEMENT

1. Statement of Issue

Should Congress use the d-2 bill to promote cooperative management between adjoining public and/or private landowners in Alaska?

It has been suggested that the bill used to resolve Section 17(d)(2) of the ANCSA could also be used to promote cooperative management between State, Federal and even private landowners in Alaska. The need for strong cooperative management has been enhanced by the complex pattern of land ownership arising under ANCSA and the Statehood Act. This pattern increases the possibility of conflicts between land managers, particularly in regard to wildlife management. Habitat protection offered by a single land manager will often not be enough to protect a wildlife resource unless other land managers are willing to cooperate in this effort.

2. Background

a. Existing Federal Law

Federal law aimed at fostering cooperation among land managers includes the Coastal Zone Management Act, the Water Resources Planning Act, and the Sikes Act. The Sikes Act is probably most relevant to this discussion.

Under the extension to the Sikes Act (P.L. 93-452), the Secretaries of Interior and Agriculture are required "to develop...conservation and rehabilitation programs to be implemented on public lands under [their] jurisdiction...." Parks and refuges are excluded from this provision. The programs are required to be developed in consultation with State agencies and must be consistent with any overall land use and management plans. The Act also specifically allows the State agency administering fish and game laws to voluntarily enter into a cooperative agreement in respect to each conservation and rehabilitation program. The agreements are required to address several points including habitat improvements, range rehabilitation, threatened and endangered species, and off-road vehicles.

b. Existing State Law

The Alaska Statutes authorize the Commissioner of Natural Resources to enter into "cooperative resource management or development agreements." They also authorize the Commissioner of Fish and Game to enter into agreements concerning fish and game management. In establishing the authorization concerning resource management, the intent of the Legislature is worth noting:

"The legislature recognizes the changing resource ownership patterns and increasing complexity of natural resource management and development in the state and the reality that use and enjoyment of land and resources by one possessor or owner may significantly affect rights of other adjacent or remote possessors or owners. It is the intent of this Act to clearly authorize the state to enter into cooperative resource management or development agreements when in the state and public interest, and under specific guidelines designed to protect the public and state interest."

3. Alternatives

There are two approaches that could be used to promote cooperative management. One would simply make it attractive for adjoining, but distinct land managers to enter into voluntary cooperative agreements. This is the traditional approach.

The other would place certain lands directly under the classification or management authority of an agency representing varied interests. This would involve creation of a fifth system.

Specifically, the d-2 legislation could be written to do any or all of the following:

- a. It could endorse the creation and implementation of voluntary cooperative agreements. Guidelines for such agreements could be designated within the legislation, or the authority for establishing guidelines (and promoting passage of agreements) could be given to some type of cooperative agency.
- b. Legislation could establish a clearinghouse-type procedure. Management programs of individual agencies having implications for other land managers would be submitted to a cooperative agency for distribution and comment. The agency itself could even be charged with review responsibility. Participation of land managers in the clearinghouse could be mandated within the legislation or tied to budgetary purse strings.
- c. Legislation could designate certain lands directly under the authority of a cooperative agency representing Federal and State and perhaps private interests.

If the final d-2 legislation contains provision b or c above, it will also need to identify lands subject to the provision. The following approaches could be used in identifying such lands:

- a. The legislation (and companion State legislation) could make all Federal, State and voluntary private land owner/managers in Alaska subject to the cooperative provision.

- b. The legislation (and companion State legislation) could designate certain boundaries within which all Federal, State, and voluntary private land owner/managers would be subject to the cooperative provision.
- c. The legislation (and companion State legislation) could designate certain classes of Federal and State lands in Alaska which would be subject to the cooperative provision.
- d. The legislation (and companion State legislation) could make those lands disposed of within the legislation and designated State lands subject to the provision.

Institutions and Procedures

Most of the recommendations in this section pertain to institutions and procedures that would facilitate cooperative and compatible land planning and management by the major landowners in Alaska. These institutions and procedures would serve to bring different owners together to consider land planning issues that cut across separate ownership boundaries. Other recommendations for land exchange and State land selection propose ways of allocating land ownership so that the character of the land suits the primary interests and purposes of governmental landowner. By facilitating complementary and compatible land management, the institutions and procedures outlined in this chapter would serve to implement the total State planning framework recommended in the first section of this chapter.

Joint Planning Body

An ongoing Federal-State Planning Commission should be established in Alaska to provide continuing joint Federal-State planning and policy direction for the lands of Alaska. A review of the most appropriate structure and procedures for such a body should be undertaken.

Alaska's land will soon be divided into 10-15 million acres owned by the State, nearly 44 million to Alaska Natives and approximately 227 million acres remaining to the United States. Each of these categories will have ownership or administrative divisions. With the expiration of the Joint Federal-State Land Use Planning Commission in June, 1979, no formally constituted mechanism will exist which can take an overview of both intergovernmental (State-Federal) land use relationships and inter-bureau, departmental or agency relationships.

A continuing Commission could provide the framework for statewide planning, described in the first section of this chapter, and could serve to bring State and Federal policy makers together in the determination of land use issues involving both levels of government. In these capacities, the Commission could assist in minimizing duplication and maximizing the effectiveness of various planning efforts, and could advise decision makers at executive, legislative and line management levels as appropriate.

A review of the Councils of Governments, River Basin Commissions, this Commission and other efforts should be undertaken so that the best available mechanism could be utilized.

Compatibility of Classification Systems

State and Federal land managers should use similar or compatible categories for land planning and classification.

Use of the same or compatible land categories by State and Federal land managers would facilitate areawide planning encompassing lands owned by both levels of government. For the same reason, large private landowners as well as municipalities should be encouraged to employ land planning categories which, as far as possible, are compatible with a unified State and Federal system.

Implementation of this recommendation will require a revision of the State classification system and the development of a Federal classification system for use in d-1 withdrawals. The two systems should be drafted cooperatively. As is discussed in Part III, the Commission plans future work and recommendation on this subject.

Land Disposal and Retention

Generally, Federal landholdings located in Alaska should be retained in public ownership, and State and municipal lands should be regarded as the principal sources of public land needed for disposal.

As a consequence of the land selection rights granted to the State of Alaska and to Native corporations in the Alaska Statehood and Settlement Acts, respectively, much of the remaining Federal land will be located in remote areas which are unsuitable for intensive use. Some of this land is already withdrawn for special purposes, such as parks and wildlife refuges. Other Federal lands have been recommended pursuant to Section 17(d)(2) of the Settlement Act for permanent retention in Federal ownership as parks, wildlife refuges, national forests, and other management units. In addition, certain Federal lands which might otherwise be suitable for private use are withdrawn for other federal purposes, such as military reservations.

On the other hand, the State of Alaska has selected a significant portion of its land entitlement under the Statehood Act with a view toward making lands available for settlement and other private uses, and to providing nearby public recreation lands which will accommodate recreation demand generating from settled areas. Already, the State and municipal governments have conveyed land to private parties. In addition, much of the land which will be conveyed to Native corporations under the Settlement Act is in low-lying riverine and coastal areas, and is well suited for habitation and other settlement uses.

With these factors in mind, the Commission recommends that most of the Federal lands in Alaska be retained in public ownership. Proposed disposals should occur only after careful planning and classification of the lands involved. To facilitate these objectives, the

regulations which are subsequently promulgated by the Department of the Interior to implement Section 17(d)(1) of the Settlement Act should carefully delineate the criteria and procedures which will be utilized in making retention and disposal decisions.

Though State and municipal lands will remain as the principle source of public lands which may be needed for private settlement, disposal for this purpose should occur only where it conforms with a comprehensive land use plan for the surrounding area and meets a clearly identified need for private use and development of the land. The planning and classification process through which lands for settlement purposes are designated should also result in the designation of State and municipal public recreation lands in locations that will be readily accessible to settled areas. Commission recommendations on State land planning, classification and disposal policy are covered in recommendations set forth below.

Land Exchanges

(a) The Federal government, the State, and interested Native corporations should develop criteria and procedures to facilitate future land exchanges; (b) the State should enact legislation authorizing land exchanges for other than equal appraised fair market value, subject to appropriate restrictions; (c) the Federal government and the State should examine the advisability of amending Section 6(i) of the Alaska Statehood Act to permit the State to convey both the surface and mineral estates in an exchange; and (d) except where warranted by special circumstances, the surface and subsurface estate should not be separated and, where possible, previously separated surface and subsurface estate should be recombined.

The land ownership pattern in Alaska is growing ever more complex as a consequence of the implementation of the Alaska Statehood Act and the Alaska Native Claims Settlement Act. Lands owned by the Federal government, the State, Native corporations, and other parties lie adjacent to each other in tracts of varying size which do not necessarily follow rational boundary lines. This intermixture of land ownership often jeopardizes prudent management and use. In recognition of the possible need for future land adjustments, Congress enacted Section 22(f) of the Settlement Act, which authorizes certain Federal agencies to exchange lands with the State, Native corporations, and others. This section was recently amended to permit land exchanges for other than equal appraised fair market value upon a finding that the public interest would be served by such an exchange. In addition, the amendment allows the State to exchange mineral rights with the Federal government without violating the Statehood Act prohibition against the alienation of such rights.

With this background in mind, the Commission recommends that the Department of the Interior and other affected Federal agencies promulgate the regulations needed to implement Section 22(f). The promulgation of such regulations would enable the Federal government to initiate negotiations respecting particular land exchanges designed to improve ownership and management patterns. In addition, the regulations, by providing criteria and procedures, would give guidance to parties desiring to exchange lands with the Federal government.

The criterion of equal appraised fair market value has traditionally been included in Federal and State exchange statutes, and it works well where land values can be readily determined through appraisal. This standard breaks down in the Alaska context, however, because the paucity of comparable land sales in many rural areas, the vast acreages involved, and other factors often make it impossible to use standard appraisal methods.

Accordingly, we recommend that the appropriate State official be authorized to execute land exchanges for other than equal fair market value where the appraised value of the properties to be received by the State, together with the nonmonetary value of other public benefits, equals or exceeds the value of the properties which the State will relinquish. To avoid abuse, the Commission further recommends that any subsequent legislation provide an opportunity for the Legislature to disapprove such exchanges within a specified period (but not exchanges based on equal appraised value). In addition, we suggest that subsequent legislation require identification of the lands and other consideration involved in an exchange before the exchange is consummated. Such legislation should also provide, among other things, for a written statement of the basis for an exchange, agency coordination and consultation, public notice and hearings, and the protection of valid existing rights.

The prohibition against the State's alienation of mineral rights was included in the Statehood Act at a time when the lack of revenues and other factors led some to conclude that the State might barter away its mineral wealth. Whether or not such a conclusion was valid then, the situation has changed markedly since. The State is now a viable economic entity, with a large land base and a growing economy. In addition, the State has established the administrative infrastructure and legal framework necessary to manage vast acreage in a prudent manner. Of special relevance here, the restriction against transfer of mineral rights would appear to make well conceived land exchanges more difficult. Thus, except with respect to exchanges in which the Federal government would receive the minerals, the State is now required to use the Secretary of the Interior as an intermediary (an approach which is fraught with difficulty), to convey only the surface estate, or to forego certain trades altogether. None of

these alternatives is satisfactory, for the need to consummate two-party land exchanges is clear, and prior experience in other parts of the country shows the detrimental consequences resulting from divided ownership of the surface and mineral estates.

Accordingly, assuming State concurrence in order to avoid problems arising from a unilateral amendment of the Statehood Act, we believe that Congress should consider amending Section 6(i) of the Statehood Act to permit the State to convey both the surface and mineral estates in land exchanges not involving the Federal government. Any such amendment should be accompanied by State legislation which requires the appropriate State official to convey or receive both the surface and mineral estates, except where a prior separation of ownership or other special circumstances dictate a contrary approach.

Facilitating State Selection

The Federal government and the State of Alaska should each take the steps necessary to enable the State to complete its selection of the land entitlement granted in the Alaska Statehood Act.

The State of Alaska has yet to select approximately 35 million of the 103.5 million acres of land entitlement granted in the Alaska Statehood Act. The deadline provided in the Statehood Act for completion of the selection process is 1984. Various factors currently preclude the State from making selections in all but a few areas.

The Department of the Interior has not yet begun to classify the "public interest" lands currently withdrawn under Section 17(d)(1) of the Settlement Act. The relevant public land orders contemplate classification prior to State selection of lands located outside of areas withdrawn for possible Native selection. Within Native withdrawals, Section 17(d)(1) permits the State to select lands not chosen by Native corporations. At the present time, however, a public land order precludes any State selections within Native withdrawals until October 1, 1976, and many Native corporations have selected far more land than they are entitled to receive under the Settlement Act. Uncertainty about the final disposition of the "national interest" lands currently withdrawn under Section 17(d)(2) of the Settlement Act also affects the State selection process. While the State is permitted to "identify" such lands for selection, no selection applications can be processed until Congress has had an opportunity to determine whether the land involved should be retained in Federal ownership. Other factors, including the selection rights granted to the Cook Inlet and Sealaska Regional Corporations in the recently enacted amendments to the Settlement Act, will affect future State selections.

With this background in mind, the Commission recommends that the Department of the Interior promulgate necessary regulations and begin the process of classifying the "d(1)" lands not encompassed within Native withdrawals. In order to ascertain priorities and selection patterns, the Department should augment its dialogue with Native corporations which have selected much more land than they will receive under the Settlement Act. Implementation of these recommendations would facilitate State selections in certain areas which have not been proposed for retention in Federal ownership and which otherwise seem appropriate for such selection.

At the same time, the State should complete its efforts to formulate criteria governing the placement of future selections, for such criteria will enable the State to develop the comprehensive overview necessary to make prudent choices. In addition, the State should examine relevant legal principles and other considerations in order to determine the likelihood of ultimately obtaining certain categories of land which it might desire to select.

To the maximum extent possible, the Federal government and the State should cooperate with each other and with affected Native corporations to facilitate the State and Native selection processes. If such cooperation does not occur, the ability of the State to make selections will be adversely affected, and the final pattern of Federal, State, and Native land ownership may not be as rational as it otherwise might be.

Developing State Land Selection Policy

State land selections should be guided by a statement of land selection policy developed after full opportunity for public review and comment.

Making selection decisions requires a combination of (a) factual information about the nature of the land and (b) public policy about the values of land to the people of the State. To develop the public policy component of selection decisions, it is recommended that the State, with the participation of the Commission, draft a list of purposes for State land selection, ranking these purposes in order of their estimated importance. Public review and comment on the proposed draft should be elicited through a series of public hearings.

Adoption of a final policy statement of selection purposes and priorities, perhaps through legislative resolution, would provide the basis for a systematic means of ranking proposed land selections. With the policy statement, factual information about characteristics of the land in the proposed selection areas could be evaluated in relation to State purposes and priorities.

ALASKA LAND VALUES

Preface

This chapter presents basic information about Alaska's natural values and renewable and nonrenewable resource values. Natural values of potential national interest have been identified in a statewide context, as have the State's resources that may be required to meet other national needs. This information is provided in narrative description and on maps.

Each section shows the current allocation of the primary natural and resource values among the major public (State and Federal) and private (Native corporate) landowners. The State and Federal portions are based on the State's land selections to date. As the State selects its remaining entitlement under the Statehood Act from Federal lands, the Federal portion of the various values will correspondingly decrease. The allocation of land values and resources to private land ownership is based on an estimated projection of their actual 44-million-acre entitlement. "Over-selections" are not included. Private lands other than Native amount to less than one percent of the total land ownership in Alaska. Values on these lands are included in the State allocation. All acreage allocation figures given are approximate. Values contained in existing units of National Park, Wildlife Refuges, and Forest Systems; State conservation systems; and on lands in (d)(2) status after December, 1973, are also identified. Values on existing national reservations are shown in a table at the end of this chapter. Acreage or other units of allocation are often shown in simple pie charts on the maps. Some basic economic factors affecting the development of resources in Alaska and their related land use implications are also cited. Finally, the chapter shows the relationships of these values and resources to current (d)(2) withdrawals. The information compiled here provides a statewide context in which all proposals for new national interest reserves can be evaluated.

WILDERNESS, WILDLIFE, AND SCENIC VALUES

Wilderness Values

Most lands and waters of Alaska could be considered primitive or characterized as wilderness in a national context. Consequently, decisions on the protection of Alaska's wilderness values may need to be more refined than would be necessary elsewhere in the Nation. Applying the definition

in the Wilderness Act of 1964, nearly all roadless tracts of 5,000 acres or more remain in their natural state. Alaska contains a large part of the undisturbed primitive lands remaining in the Nation. These lands provide nearly all of the Nation's remaining opportunities for designation of large wilderness tracts (greater than 2 million acres). In the future, development on private corporate and State-owned lands and resource development interests on Federal lands may significantly reduce the amount of land now meeting wilderness standards.

Future wilderness areas will probably be designated, based upon findings on which of the many areas remaining in their natural state have unique or outstanding values that merit their special protection or designation as wilderness. The information on natural values and resources that follow in this section provides a basis to determine which lands may merit retention in their natural state.

At present, approximately 76,000 acres on eight small national wildlife refuges on remote islands have been designated wilderness. Other opportunities for wilderness study and designation are myriad and exist in all regions of Alaska. Proposals for wilderness areas in existing national parks and wildlife refuges comprising nearly 6.1 million acres have already been submitted to Congress. Proposals for another estimated 16.8 million acres on parks and refuges have been deferred because of possible new additions and ongoing changes in land status and planning needs. A total of 2.6 million acres in seven wilderness study areas have also been designated on the Tongass and Chugach National Forests. Finally, the recently enacted Federal Land Policy and Management Act of 1976 permits the review and possible classification of lands remaining in the large Federal public domain in Alaska as wilderness. The State of Alaska has established the Kachemak Bay State Wilderness Park, encompassing over 200,000 acres, and has developed management plans for other large State parks that identify wilderness zones.

Wildlife

Alaska's winters are long and harsh, and its wildlife habitats are frequently not as productive as in many other states. With the exception of waterfowl and seabirds, population densities are generally lower, for example, than those in Michigan. However, Alaska's habitats are extensive and generally unspoiled, and terrestrial wildlife populations frequently require larger areas. Alaska's caribou, the Nation's most far-ranging terrestrial mammals, use millions of acres. Caribou and other migratory species frequently use habitat in mixed ownership or classifications.

PROTECTION OF NATURAL VALUES ON LANDS NOT IN FEDERAL OWNERSHIP

Wildlife, scenic, and other natural values of national interest in Alaska are often found on lands selected by the State of Alaska or by Alaska Natives. Lands with these values frequently have integral natural relationships to adjoining Federal lands, which in some instances are existing or proposed national parks or wildlife refuges. Wildlife habitat and watersheds frequently extend beyond ownership boundaries, and lands along many scenic rivers and lakes are in mixed ownership. Several options discussed below could be utilized to assure protection of these values of national interest on State and private lands.

Land Exchanges

For lands selected by the State or Native corporations with high scenic, wilderness, or wildlife values integrally related to existing or proposed national park and wildlife refuge units, the Federal government could exchange lands in its ownership. Exchanges could take place within a local area or could involve Federal lands elsewhere in the State.

Proximity of land areas to national park or wildlife refuges may enhance or diminish the value of such lands to State or private owners, depending on their character and location. Adjoining lands may afford opportunities for more intensive recreational use and development of facilities than allowed in the parks and refuges and be of potential profit to the State and private owners. On the other hand, some uses may be deferred on these lands. Other lands in Federal ownership may have more real value to State and private owners for resource development and revenue generation purposes. For these reasons, the Federal Government and adjacent landowners may wish to consider land exchanges.

The State may choose to relinquish certain lands it has selected. This course will probably only be taken if the State is assured of alternative selection rights in areas of particular interest to the State. In addition, Congress can authorize funds for the acquisition of State selected lands in areas of high natural value.

Cooperative Planning and Management/Joint Classification Areas

Many areas of Alaska with natural characteristics and resources of critical interest to both Federal and State governments and to private landowners will be in mixed ownership. Of particular interest to the

Federal government may be those lands of mixed ownership surrounding existing or proposed national parks or wildlife refuges. Areas of interest to the State may be those where renewable resources are presently harvested or could potentially support economic activity, such as fisheries habitat. Without coordinated planning, protection of their natural values or the orderly and environmentally sound development of resources may be difficult.

Federal and State governments could designate, either administratively or legislatively, areas for cooperative planning and management. To insure coordination, both governments could agree to joint classification of the lands identified. Each government manager or owner using its own classification system might classify adjoining lands in an incompatible manner. As a result, conflicts could be precipitated and uses and management objectives frustrated. Each government could informally participate in the classification of the other's lands, or new classification categories and procedures could be formally instituted. Veto powers could be reserved to each government on classification of their respective lands and management could continue to be exercised by Federal and State agencies with jurisdictions in the area.

In some instances, the implicit flexibility of cooperative arrangements to accommodate multiple interests may jeopardize the goal of primary purpose withdrawals or unduly restrict certain land uses. Joint classification is probably not viable in those areas where Federal and State interests are not similar or complementary.

State Area Designations

Several areas with scenic or other natural values of national significance have been selected by the State of Alaska as part of its general land entitlement under the Statehood Act. The State can designate these or other areas as State parks or wildlife sanctuaries or classify them as critical habitat for protection of their natural values. Areas already designated, classified, or currently recommended by the Governor in these protective categories are shown on the map on p. 10, and others have been proposed.

Certain wildlife habitat, scenic, and recreational lands designated by the State adjoin existing or proposed national parks and refuges. Their management can complement that of the Federal reserves. For example, a State park adjoining a national wilderness park may afford opportunities

for visitor accommodation and intensive recreational uses that would not be appropriate within the adjacent park. Some State tidelands and submerged lands with significant habitat have been designated adjacent to national wildlife refuges to complement the values of the Federal reserve.

Two particular national programs which allow states to designate lands under their jurisdiction as parts of Federal systems are the National Wild and Scenic Rivers System and the National Trails System. The State maintains ownership and management of these lands, but certain additional Federal restrictions are applied to protect their designated values.

Land Bank for Private Lands

The Alaska Native Claims Settlement Act provided for the transfer of considerable acreage into private ownership. In many areas, these lands adjoin or are within proposed national interest land units and contain valuable related wildlife habitat, wildlands, scenic, recreational, and historical values. Federal, State, and private land managers are concerned over how these private lands will be used, developed, or perhaps sold in the coming years. In response to these concerns, a stabilizing mechanism termed a "land bank" has been suggested. Its main incentive to private owners is a moratorium on taxation while such private lands are placed under increased public control.

In this scheme, land not needed by a fee title owner for immediate development could be placed in the "land bank" where it would be systematically reviewed and withdrawn at regular intervals, such as every 5 or 10 years. While banked, the land would be managed by a designated land management agency with emphasis on preserving its natural values. Lands sold while in the bank would carry the development restrictions along with the title until the next designated time for review. Values accruing to the public through this arrangement could include availability of the land for certain public uses, compatible management of lands adjacent to or within national reserves, more public control over land sales, and a more stable land use pattern.

Pursuant to the Alaska Native Claims Settlement Act, taxation on the tracts of lands conveyed to Natives becomes effective in December, 1991, or whenever sold, developed, or leased before that date. When Native and other private landowners do not wish to generate revenues from their lands or when no economic development scheme seems viable, tax deferment

may hold strong appeal. Interest to the owner of the land in the bank beyond possible tax relief could include governmental protection against trespass and fire suppression. Long term protection of the cultural heritage values of banked land could also be afforded Alaska Native landowners. A land bank could be administered by the Federal or State governments, or both.

Cooperative Programs and Agreements

Many congressional acts provide for cooperation between the Federal and State governments in wildlife protection, restoration, and management. Some make funds available to the states, transfer certain authorities to manage some wildlife species such as marine mammals, and encourage private landowners to maintain wildlife habitat. One of the most recent is the Sikes Act which provides for expanded cooperative Federal-State wildlife programs on national forests, national resource lands, and military reservations, with Federal funds helping support such cooperative endeavors.

Two Federal programs are concerned with identification of natural areas and historic sites that best express the Nation's natural and historical heritage. Sites suitable for National Natural Landmarks and National Historical Landmarks are generally identified regardless of their location or ownership. The administrators or owners of designated sites are encouraged to manage the areas in a manner that preserves the qualities identified in the site. Federal funds may be applied in part towards preservation of historical sites. Landmarks are also afforded certain means of protection from federally funded projects, such as road construction, which might have adverse impact on a site. Long term protection is largely dependent on the owner or administrator who may decide to use the area or site in a manner that would degrade or destroy the landmark values. The landmark programs are ongoing and the identification and evaluation of potential natural landmarks in Alaska is not complete.

Another cooperative program involves research natural areas set aside to safeguard natural features and systems for scientific study. This evolving program has been in effect for many years and has encouraged identification and administrative designation of relatively small areas to preserve samples of forest types, soils, and other natural features. Management is directed towards protection and minimal disturbance of the area. Planning for a statewide system of ecological reserves in Alaska has been underway for the last several years. As currently visualized,

this program cannot protect extensive areas of wildlife habitat, wilderness, or other natural features, but can preserve representative samples of values of national scientific interest. The proposed initial system of 200 sites throughout the State includes six categories, ranging from unmodified natural areas or ecosystems to areas modified by man or available for scientific modification. Sites will vary in size depending on their nature and research needs. While many of these sites are on (d)(2) lands or other Federal lands, a number lie on State or Native corporation lands.

The Federal government conducts a cooperative State and private forestry program to encourage maintenance of forest values and wise practices and use. Forested lands affected by this program may be subject to periodic timber harvest, but intermittently furnish wildlife habitat, recreational opportunities, and help maintain water storage and quality.

While some of these programs are clearly mandated by law, others involve voluntary cooperative agreements. These may be limited in scope and duration, and may change depending upon the dispositions of new unit managers or bureau directors. Most cooperative agreements between Federal agencies or between Federal and State agencies usually deal with a single subject matter or a single geographic area, and may not provide the comprehensive coordinated Federal-State planning and management that may be needed for some lands.

Existing Regulations

Several Federal laws and regulations apply to State as well as Federal lands and act to protect and preserve environmental values. Provisions of the National Environmental Policy Act and the Coastal Zone Management Act and those pertaining to air and water quality and solid waste management are particularly significant. While these laws help protect certain natural values, they do not altogether govern or control land use to maintain primitive values, restrain development on critical or significant habitats, or prevent degradation of scenic values.

MANAGEMENT AND CLASSIFICATION SYSTEMS FOR NATIONAL INTEREST LANDS IN ALASKA

Many management combinations for the national interest (d)(2) lands are possible. Each option has opportunities and problems, as well as probable

While multiple national interests can be served by Alaska National Resource Lands, it is likely that more extensive alteration of natural values will occur than under national park or wildlife refuge management. Regulations for National Resource Lands have not been adopted at this time.

National Wilderness Preservation System

The Wilderness Act of 1964 provides the statutory basis for study and designation of wilderness. The Act gives general definitions and guidelines for identifying candidate areas and for their management once designated as wilderness. Nearly all Federal lands may now be subject to review as potential wilderness study areas. Wilderness study normally includes mineral reconnaissance and assessment with the submission of findings to Congress by the President. Lands to be presented for wilderness designation generally must be Federal land in tracts no less than 5,000 acres that are roadless and undeveloped. These criteria would apply to much of Alaska.

Subject to prior existing rights, policies for wilderness areas are determined by management principles of the administering agency, and, except as otherwise provided, no roads, motorized access, permanent structures, nor commercial enterprises are allowed. Where already established, use of aircraft and motorboats may continue. Fire, insect, and disease control may be undertaken, as well as other necessary management activities. State and private landowners within wilderness areas are guaranteed rights to customary modes of access, but use of snowmobiles, which are extensively relied upon in Alaska, may be precluded. Water development projects may be permitted on wilderness areas in national forests. During the wilderness study period, most uses may be restricted pending congressional designation.

Wilderness classification or study may create many of the same use and management conflicts cited in the previous discussion on National Park and Wildlife Refuge Systems, particularly regarding access or transportation corridors across such areas. Some recreational or subsistence activities and petroleum or other mineral exploration and development within or adjacent to wilderness area, may prove difficult or impractical if roads or motorized vehicle use is precluded.

A New Land Classification Procedure and Authority

Several options are available to Congress if it should decide that existing Federal land management systems and laws cannot provide for the Nation's interests in Alaska. For example, Congress may provide additional policy guidance to existing Federal agencies and systems in Alaska or it may establish a new classification system, seek a new land use classification procedure, or establish a new management authority for some or all of the Federal lands in Alaska.

Any new classification system that is considered must reflect a balance between multiple use management, which according to some opinion, may not provide sufficient protection to some natural systems, and primary purpose management which if applied to large acreages may not allow the development of needed commodity resources. A new classification system could be administered entirely by new or existing land management agencies. A concern identified with this approach is that the objectives of the agency or agencies selected to manage and classify the new system, or units of it, will dominate the planning process and override public input or resource use concepts which are contrary to their traditional goals and objectives. Multiple purpose land use managers are often viewed by some as "too resource development oriented" while it is thought by others that primary purpose land managers will seldom if ever classify an area for any resource development. An alternative is to assign to existing or new agencies the preparation of information, planning alternatives, and management of appropriate units and place policy direction and land use classification authority elsewhere. This authority could be incorporated in a joint Federal-State mechanism with broad coordinative and planning responsibilities. A classification institution with members of varying backgrounds might be considered more responsive to the broad spectrum of public interests. Concerns for national and State sovereignty in land use decisions from such a body can be protected by retaining veto power in the executive branches of each government. Overlapping terms of office would provide a continuity and balance of interests. The Congress may also provide guidance on any particular issues that arise.

The presence of numerous State and private inholdings in areas which have nationally important scenic and wildlife values, and the ecological relationship of Federal land to adjoining State and private lands is a factor that is generally not considered by existing classification systems. The use of Federal lands may have no correlation to the use of State lands of similar character; and Federal as well as State land

management objectives may be frustrated as a result. A uniform set of land use classification criteria could be adopted and used by Federal and State agencies, or a mechanism for joint classification in which both governments participate could be established.

With respect to a new management authority, Congress could choose to create a new Federal agency with classification and management responsibilities for lands now withdrawn under Section 17(d)(2), or for all Federal lands in Alaska. The chief benefit from the establishment of an "Alaska Office of Land Management" would be its ability to tailor national standards, criteria, and regulations to the unique size, climate, and predominately wild character of Alaska's lands and waters. It would also be possible to reduce some duplication of effort and expertise in Federal land management, and the coordination of many land management functions would lie in one office. Certain problems could result if Federal land management in Alaska were removed significantly from the mainstream of national policy-making and funding. There would be a time lag for such an agency to become functional, and the probability that its regulations and decisions would undergo testing through the courts. A further detriment might also be the possibility of a one-dimensional across-the-board treatment to a variety of lands and resources. The diversity of Alaska's Federal lands, the values they contain, and the variety of public interests are such that within a consolidated management structure of this kind, it is likely that it would soon be necessary to develop divisions serving many of the same purposes and needs now met by the existing Federal land management agencies.

Footnotes:

1. Federal Field Committee for Development Planning in Alaska, Alaska Natives and The Land, Washington, U.S. Government Printing Office, October, 1968, page 195.
2. Department of the Interior, (2)(c) Report: Federal Programs and Alaska Natives, "Task III, Survey of Natives' Views," Portland, Oregon, 1974.

COMMISSION GENERAL RECOMMENDATIONS

In analyzing issues and alternative resolutions, the Commission has sought a combination of planning, classification, and management systems that could:

- ... best protect wildlife, wilderness, and scenic and other natural values of national importance;
- ... assure that future needs for nonrenewable and renewable resources can be met; and
- ... minimize land use and jurisdictional conflicts among varying landowners and provide means for their resolution.

The Commission has identified by geographic region those lands it has found that merit designation as new national interest units, and has recommended a manager for each unit. For certain of these lands, the Commission has proposed a new classification and planning institution. For each of its recommendations, the major management conflicts and issues discussed in the previous section are addressed.

RECOMMENDED LAND MANAGEMENT AND CLASSIFICATION SYSTEMS

SUMMARY: THE COMMISSION RECOMMENDS (1) NEW UNITS AND ADDITIONS TO EXISTING MANAGEMENT SYSTEMS AND (2) ESTABLISHMENT OF A NEW CLASSIFICATION SYSTEM OF LANDS.

The Commission has found that application of existing classification and management systems to some of the national interest lands in Alaska are merited where there are clear and outstanding values to be protected or managed. The Commission has also determined that circumstances and conditions over many of Alaska's lands indicated a need for a combination of stringent environmental protection combined with flexible land classification which cannot be met by existing systems, with the ability to respond to new knowledge and changing national needs. To provide a consistent basis for designation of lands in different systems and classifications, the Commission used the criteria set forth below.

River recommendations made by the Commission are organized into four groups:

- (1) Rivers primarily on Federal lands that are recommended for immediate wild, scenic, or recreational river designation.
- (2) Rivers primarily on Federal lands that are recommended for study as potential additions to the National Wild and Scenic Rivers System. These rivers are to be further studied and evaluated in the context of the classification of surrounding lands and should receive interim protection. The Commission makes this recommendation in the belief that the river study should be part of a broader planning process for many areas in Alaska and that river classification should not occur before other classifications in the same area are recommended.
- (3) Rivers recommended for potential designation flowing through both Federal and Native corporation-selected lands. These rivers meet applicable criteria, but the issues related to mixed ownership should be mutually resolved before final recommendations are made. Planning and classifications comments in category (2) above apply to these rivers as well.
- (4) Certain rivers or sections in State ownership are recommended for study by the State of Alaska for possible inclusion in the National Wild and Scenic Rivers System. The Commission believes that many of the proposed wild, scenic, and recreational designations should include entire rivers. Consequently State, private, and federally owned river segments should be studied.

NATIONAL WILDERNESS PRESERVATION SYSTEM

SUMMARY: NEW UNITS AND ADDITIONS TO THE NATIONAL PARK, WILDLIFE REFUGE, AND FOREST SYSTEMS SHOULD BE REVIEWED FOR WILDERNESS SUITABILITY WITHIN THREE YEARS IN ACCORDANCE WITH RECENT CONGRESSIONAL PRACTICES. OTHER FEDERAL LANDS WITH WILDERNESS VALUES SHOULD BE STUDIED PRIOR TO THEIR CLASSIFICATION.

A comprehensive preliminary assessment to determine areas of prime wilderness potential is particularly necessary in Alaska where nearly all of the Federal lands meet the national wilderness study criterion of at least 5,000 roadless acres remaining in their natural state. Individual proposals should be evaluated in a statewide context as they relate to other existing and potential wilderness areas. The wilderness system in Alaska should include a range of environments distributed throughout the State.

Areas thought potentially suitable for wilderness should be identified as soon as possible to provide interim protection of their wilderness character and to assure sufficient time for consideration of their designation. Those areas within new national parks, wildlife refuges, and forests should be reviewed within three years after establishment of the unit. Longer review periods appear more feasible for candidate areas on other Federal lands.

A NEW CLASSIFICATION SYSTEM

SUMMARY: THE COMMISSION RECOMMENDS THE CREATION OF A NEW ALASKA NATIONAL LANDS CLASSIFICATION SYSTEM. ADMINISTRATION OF THE UNITS OF THE ALASKA NATIONAL LANDS SYSTEM WOULD BE ASSIGNED TO EXISTING FEDERAL LAND MANAGING AGENCIES.

Alaska National Lands

From the Commission's extensive study of (d)(2) lands, it has become clear that conditions and circumstances affecting many of these lands are different from those for which the existing Federal land management systems were designed. Some extensive federally owned areas in Alaska remain largely in their natural state and have natural values that are clearly of national importance. In many instances, these lands adjoin existing national parks and wildlife refuges, and their values are similar to those protected in these units.

Nonrenewable and renewable resources found on these lands are largely unevaluated, and their possible importance in meeting future national and international needs for energy, minerals, wood fiber, and food cannot be accurately estimated at this time. Use and development trends on these and adjoining lands are difficult to discern at present, with one important exception. Alaska's rural residents heavily rely on fish, wildlife, and plants to meet their subsistence needs, and hunting and

fishing are the major current uses of many of these lands. Ownership and uses of nearby Federal, State, and privately owned lands--and, in some locations, small tracts selected by Alaska Native corporations--have not been decided. Access across these lands may become of critical importance to adjoining landowners and managers.

Based on these findings, the Commission has determined that a new classification system is needed to respond to current uses and possible future demands for resources and access. The Commission has determined that the primary national interest in these lands is in the protection of their natural values and primitive character, and that traditional multiple use management, such as the U.S. Forest Service and the Bureau of Land Management provide, would not be appropriate. Conversely, the present uncertainty of needs for resources found on these and adjoining lands argues for greater planning, classification, and management flexibility than exercised in national parks and wildlife refuges. In determining which Federal lands in Alaska warrant a new approach to their classification and management, the Commission first identified lands with one or more of the following natural values meriting their designation as new national interest units:

- ... primitive character of most of the lands and waters;
- ... important wildlife habitat and a variety of significant wildlife species and populations;
- ... geological, botanical, ecological, archaeological, or historical features of scenic or scientific interest;
- ... rivers and lake of recreational, scenic, or scientific value;
- ... hiking, hunting, fishing, and other recreation opportunities;
and
- ... watersheds, habitats, or other natural characteristics integrally related to existing or proposed national parks, refuges, and forests.

Many lands meeting those criteria are clearly core areas of outstanding natural values and have been recommended as additions to the National

Park, Wildlife Refuge, and Forest Systems. Areas with one or more of the following characteristics were further considered:

- ... resources such as minerals, timber, cultivable soils, or rangelands of potential national importance;
- ... significant hunting and fishing by local residents to meet their subsistence needs;
- ... predominantly Federal, although in some instances mixed land ownership; and
- ... natural transportation routes providing access to adjoining areas and regions of the State.

For lands with one or more of the above characteristics, in addition to predominant natural values, the Commission recommends that Congress establish a new classification system to be called the Alaska National Lands System. Such a system would constitute a new approach to Federal land management. Instead of immediately determining allowed uses of lands in the new system at the same time as units of the traditional national conservation systems are designated, the Commission recommends that Congress create an ongoing planning mechanism equipped to make decisions over time as new knowledge becomes available and as national needs change. Lands assigned to this new classification system should be permanently retained in Federal ownership, unlike the National Resource Lands managed by the Bureau of Land Management which will be available for selection by the State of Alaska and for other disposal. Congressional guidelines for the system should emphasize protection of the land's natural values and primitive character when and where any land use is permitted. Prior to land use classification, hunting, fishing, and other wildland recreational activities, trapping and research activities should be the only allowed uses. Related snowmobile use would be allowed unless closed or restricted following review. Activities, e.g. governmental mineral exploration and timber and agricultural studies, necessary to acquire an adequate knowledge of the area for classification purposes should be permitted. Hunting and fishing should be allowed under Alaska Department of Fish and Game regulations and statewide species management plans developed in coordination with the Federal habitat manager.

Where in accordance with eventual classification, mineral exploration and development should be conducted through a permit and lease system. Prior to location of major roads and other transportation facilities, a thorough analysis of environmental impacts should be made. Farming, grazing, and timber harvesting could be allowed in areas so classified.

Existing Federal land management agencies should be assigned for each unit of the Alaska National Lands System. The Commission has recommended managers for specific areas, based on the agency's expertise and experience in research and management of the resource found to be of primary value in the area, and the extent of prior intensive study given the area by the selected agency. In addition, the Commission believes, to the extent practical, the number of Federal land managers within a given area or region should be minimized. Accordingly, in some instances, the Commission has recommended that the present or proposed manager of a national conservation system unit manage adjoining Alaska National Lands.

A New Federal-State Commission

SUMMARY: THE COMMISSION RECOMMENDS THE CREATION OF A PERMANENT NEW FEDERAL-STATE COMMISSION WITH BROAD STATEWIDE PLANNING RESPONSIBILITIES AND CLASSIFICATION AUTHORITY FOR THE ALASKA NATIONAL LANDS. VOLUNTARY PARTICIPATION BY ADJACENT PRIVATE LANDOWNERS IS ENCOURAGED IN THE PLANNING PROCESS.

The Commission believes that planning for and classification of Alaska National Lands can be most effectively done through a new Federal-State commission. In addition to authority over the proposed Alaska National Lands, this proposed commission should be given broad responsibilities for coordinated statewide planning. Such coordination is needed to achieve a satisfactory completion of the land reallocations mandated by the Alaska Statehood Act and the Alaska Native Claims Settlement Act. A major goal of the commission should be the development of findings and recommendations regarding State selections, Federal withdrawals, and land exchanges among Federal, State, and major private landowners.

In cases where the Federal and State governments share jurisdiction on the same lands, for example, where the Federal government manages the habitat of wildlife populations managed by the State government, coordination will be required. Similarly, in those areas where separate governmental entities own or manage adjacent tracts within interrelated natural

systems, some coordinating mechanism such as the proposed commission should be utilized to assure protection of the natural values. Both the Federal and State governments may find joint classification by a commission to be in their respective interests. Landowners of large private tracts should also be encouraged by the new commission to voluntarily participate in cooperative planning efforts.

Finally, the Commission believes certain land use decisions would best be made in a statewide context. Wilderness and wild and scenic river designations should be made in accordance with a statewide plan to assure a variety of wilderness and river experiences throughout Alaska.

Decisions to designate transportation corridors should be evaluated as components of a statewide transportation system. The new commission should facilitate and coordinate the planning of such a system as part of its classification authority. Where and when appropriate, the commission should designate corridors across Alaska National Lands or any other areas which the Federal and State governments agree should be jointly classified. With respect to those lands designated as national parks, wildlife refuges, forests, and other Federal and State lands, transportation proposals should be evaluated according to the needs of a statewide system and advisory recommendations made.

Unlike the existing Joint Federal-State Land Use Planning Commission, the new commission proposed should have more than advisory powers and be permanent in nature. It would be jointly constituted, with representatives appointed by both Federal and State governments. Veto powers should be retained by Federal and State governments over classification and transportation decisions affecting land under their respective jurisdictions.

The Commission believes State participation in the commission is essential if natural values of national interest are to be fully protected and if the Nation is to remain assured that any future needs it has for resources in Alaska can be met. Natural values of national importance will exist on State and privately owned lands; resources to meet national needs may be met from development on these lands as well as on those under Federal jurisdiction. If major Alaska land use decisions are to be made in a comprehensive context, the involvement of all major landholders and full-ongoing involvement of the public will be critical. The Commission believes that a new Federal-State commission is the most effective instrument to secure the broadest possible involvement for decision-making in the years ahead.

JOINT CLASSIFICATION AREAS

SUMMARY: AREAS OF SIGNIFICANT NATURAL VALUES AND/OR RESOURCE DEVELOPMENT POTENTIAL OUTSIDE OF THE EXISTING NATIONAL CONSERVATION SYSTEMS AND THE ALASKA NATIONAL LANDS SYSTEM WHERE OWNERSHIP WILL BE MIXED SHOULD BE JOINTLY CLASSIFIED BY THE FEDERAL AND STATE GOVERNMENTS. CLASSIFICATION OF THESE AREAS SHOULD BE THE RESPONSIBILITY OF THE PROPOSED JOINT FEDERAL-STATE COMMISSION. MANAGEMENT RESPONSIBILITIES AFTER CLASSIFICATION WOULD REMAIN WITH THE FEDERAL AND STATE AGENCIES EXERCISING JURISDICTION IN THESE AREAS.

When land transfers are completed in Alaska, ownership of numerous areas with key natural resources will be divided among Federal, State, and local governments, as well as private landowners. Whether the public interest is best served by protection of natural values or by the development of needed resources, cooperative planning will be essential. With coordination, Federal, State, and private interests can all be served more compatibly; without it, conflicts may be aggravated and all interests frustrated. Accordingly, the Commission believes that in those key areas where the various interests are similar or complementary, land classification should be conducted jointly, and the best instrument for such classification is the proposed joint Federal-State commission. Areas for joint classification could be established by congressional act and corresponding State legislation, or general authority could be granted by Congress and the Alaska Legislature to the commission as part of its comprehensive planning function.

Joint classification areas should not encompass lands within or recommended as additions to the existing Federal land management systems, nor include State-owned lands that are singularly important to the State for settlement and resource development purposes. The Commission believes that both governments have sound reasons for reserving exclusive control over certain lands, and for this reason, does not propose incorporating all lands in joint classification areas. The prerogatives of the different governments should be further preserved by a veto system giving each government veto power within its sphere of ownership over joint commission classifications.

The Commission has not delineated proposed areas for joint classification at this time because the eventual configuration of land ownership is not yet clear. And for those lands where mixed ownership patterns emerge from these major land transfers, other options such as land exchanges should also be explored.

BOUNDARY DELINEATION CRITERIA

SUMMARY: BOUNDARIES OF NEW NATIONAL INTEREST UNITS AND ADDITIONS TO EXISTING UNITS SHOULD FOLLOW HYDROLOGIC, PHYSIOGRAPHIC, OR OTHER NATURAL FEATURES THAT ARE EASILY IDENTIFIED ON THE GROUND. BOUNDARIES SHOULD BE DRAWN TO EXCLUDE LARGE PRIVATELY OWNED AREAS. WHERE LARGE AREAS OF STATE OR PRIVATE LANDS ARE LOCATED WITHIN AREAS OF HIGH NATIONAL SIGNIFICANCE, LAND EXCHANGES SHOULD BE EXPLORED. COASTAL BOUNDARIES OF PROPOSED UNITS SHOULD EXTEND OFFSHORE TO ENCLOSE MARINE WATERS AND SUBMERGED LANDS WHICH ARE CRUCIAL TO THE EXISTENCE OF MAMMALS OR BIRDS ASSOCIATED WITH THE TERRESTRIAL PORTION OF THE UNIT.

Boundaries around reserves intended to contain natural values have not always conformed to ecological units or been demarcated by easily identifiable physical features. Prior land status and use and the rectangular survey system have previously influenced boundary delineation to the detriment of the values whose protection and management were intended. Boundaries around proposed national interest lands in Alaska should, where possible, be drawn to encompass complete watersheds and "ecosystems." Many boundaries are not likely to be surveyed for years or decades because of more pressing survey needs elsewhere; thus, boundaries easily identified in the field will be especially important.

Frequently out of necessity, Alaska Native corporations have currently selected more land than their entitlement, and in some cases in areas integral to proposed Federal reserves. It is not known at this time which overselections will be relinquished.

The Commission has adopted the following guidelines to seek resolution between containment of natural features of national interest in logical units with the rights and needs of Alaska Native corporations and the State of Alaska. Privately owned lands should be enclosed in proposed reserves where: (1) the tracts have overriding national significance and opportunities for alternative selections or a voluntary land exchange are afforded; (2) Native selected tracts in areas of key natural values appear to be overselections or of low priority to the corporation; (3) scattered small tracts including mineral claims lie within the recommended boundaries; or (4) relatively small tracts are inside the best natural boundaries, but on the peripheries, of the proposed unit.

Terrestrial ecosystems do not generally end at mean high tide along the ocean coast or at the edge of large lakes. There are often strong interrelationships between the land and sea relative to food chains;

Preliminary

Towards An
Alaska Wilderness System
Some Considerations

December, 1977

Joint Federal-State Land Use Planning Commission

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K. Map - Selected Primitive Areas as Listed in Appendix J (to be added) available 6/2/78

L. Resource Analysis of Primitive Lands and Waters in Alaska (Draft - January 15, 1975)

Towards An
Alaska Wilderness System
Some Considerations

INTRODUCTION:

The concept of preserving some of the country's wild lands in their natural condition for various direct and indirect benefits to present and future citizens has existed for many decades. In 1964, the Congress formally recognized the values of wilderness and declared a policy of securing an enduring resource of wilderness. These areas were to be federally owned lands designated specifically as wilderness areas by the Congress. This "Wilderness Act" initially set aside many areas of the national forests for inclusion in the National Wilderness Preservation System.

The Act directed the Secretaries of Agriculture and Interior to study roadless areas in the then existing units of the National Park and Wildlife Refuge Systems as well as other national forest areas and report their findings and wilderness recommendations periodically through the President to the Congress with completion by September 3, 1974. These studies and their recommendations were completed in late 1974 with several refuge and park areas in Alaska proposed over the years for wilderness designation (see Appendix A). A few Alaska exceptions were allowed, however, because of proposed additions, land selections and other factors affecting these existing reserves brought about by the Alaska Native Claims Settlement Act of 1971. Also peculiar to Alaska was the fact that the law required no national forest areas be studied in Alaska as the law directed that administratively designated primitive areas be studied, and there were none in Alaska at that time. The Forest Service has since designated several wilderness study areas in Alaska.

Primitive lands suitable for wilderness designation are essentially areas where the earth and its community of life are untrammelled by man, and where man himself is a visitor who does not remain. They are lands retaining for the most part their natural character and balance without permanent improvements or human habitation. Primitive lands can be further defined as areas which generally appear to be affected primarily by the forces of nature with the imprint of man's work substantially unnoticeable, and having outstanding opportunities for solitude or a primitive and unconfined type of recreation. The areas may also contain ecological, geological, botanical, or other features of scientific, educational, scenic, or historical value.

Major categories of value assigned to primitive lands are scientific, recreational, habitat for wildlife needing wilderness conditions, and as reservoirs where primitive or near-primitive ecological communities continue to evolve. Individual primitive areas may have more value in one category than another. Areas can be qualitatively rated for these values. Their relative appeal to man can be rated, at least in part, by evaluating their recreational attributes.

ALASKA WILDERNESS OPPORTUNITIES

Alaska may be distinguished from the other 49 states in several respects, but one particular attribute is the amount of land and water remaining in an essentially primitive or pristine condition. These wild lands prompt some to want to preserve some of this increasingly rare resource for various benefits while others view them as places to tame and exploit.

Two hundred million and more acres of projected remaining Federal land alone meet national criteria for potential wilderness. Consequently, decisions on the protection of Alaska's wilderness values may need to be more refined than would be necessary elsewhere in the Nation.

Alaska contains a large part of the relatively undisturbed primitive lands in the Nation. These lands provide nearly all of the Nation's remaining opportunities for designation of large wilderness tracts of two million acres or more. However, the growing demand for commodity resources, and future development on private corporate and State-owned lands as well as Federal lands, may significantly reduce the amount of land now meeting wilderness standards.

Future wilderness areas will probably be designated, based upon findings on which of the many areas remaining in their natural state have unique or outstanding values that merit their special protection or designation as wilderness.

At present, approximately 75,000 acres of Federal land in Alaska on eight small national wildlife refuges on remote islands have been designated wilderness. Other opportunities for wilderness study and designation are myriad and exist in all regions of Alaska. Proposals for wilderness areas in existing national parks and wildlife refuges comprising nearly 6.1 million acres have already been submitted to Congress. Proposals for another estimated 16.8 million acres on parks and refuges have been deferred because of possible new additions and ongoing changes in land status and planning needs. A total of 1.6 million acres in seven wilderness study areas have also been designated on the Tongass and Chugach National Forests. Finally, the recently enacted Federal Land Policy and Management Act of 1976 permits the review and possible classification of lands remaining in the large Federal public domain in Alaska as wilderness. The State of Alaska has established the Kachemak Bay State Wilderness Park, encompassing over 200,000 acres, and has developed management plans for other large State parks that identify wilderness zones.

Philosophy for designation and management of wilderness in Alaska is not of one accord. One school of thought supports separate wilderness studies of parks, wildlife refuges, and forests to develop plans that place proposed wilderness areas in the context of other legitimate needs or uses in these Federal reserves. Legislation now before Congress would alter this present procedure by establishing instant wilderness at the same time new reserves are enacted. Further, studies would then

have to justify what kind of development, if any, would be allowed in the wilderness.

With respect to management of wilderness, some in addition to supporting large wilderness areas, believe these areas should be administered stringently, barring all but the most essential physical intrusions for people use or to carry out management programs. Motorized equipment would generally be barred. Others believe a somewhat more liberal approach is appropriate for some areas. These include retention of rustic shelters such as the Forest Service cabins at scattered locations in the Tongass and Chugach Forests. Aircraft landings and motorboat use of certain waters would be allowed. Snowmachines might be allowed in some instances. This diverse opinion raises issues that must be dealt with.

GENERAL FINDINGS REGARDING POTENTIAL WILDERNESS AREAS IN ALASKA

1. Much of Alaska remains today in a primitive state, but the stage is set for rapid changing of these conditions through a massive land ownership reallocation, increasing commodity resource development, and increasing recreational use of the rural environment.
2. Interest exists within and without the State in establishing wilderness areas in Alaska because the State contains some of the most scenic and wild lands and waters remaining in the country. A grand opportunity is present in Alaska to designate some of the finest and largest wilderness areas in the nation.
3. Much interest also exists in not designating wilderness areas or in minimizing the amount of acreage involved for several reasons, including:
 - a. A need for further inventory of Alaska's resources, especially its mineral potential.
 - b. Desire to develop mineral, agricultural, and timber resources.
 - c. Desire to minimize impact on life styles, subsistence activities and means.
 - d. Concern for future transportation and utility corridor needs.
 - e. Not wanting restrictions on means of transportation to certain areas.
 - f. Concern with wilderness restrictions on habitat manipulation or other land use practices.
4. A general analysis of primitive lands, high quality natural feature values, wildlife habitats, identified areas of scientific interest, existing and potential resource development opportunities, and apparent Federal, State and private land ownership patterns,

indicates that areas with the most feasible potential for designation as wilderness are within existing and proposed Federal reserves. A lesser amount of potential lies on likely remaining Federal domain or on State lands or likely State selections.

WILDERNESS PLANNING

As followup to Commission memoranda of September 1973 and October 24, 1975 regarding a wilderness system in Alaska, an initial identification of potential wilderness areas in Alaska has been prepared and is appended. This study considered potential wilderness on both Federal and State lands even though units of the national system are limited to Federal lands. A comprehensive wilderness system in Alaska may not be achieved solely on Federal lands. Some State parks and other suitable State lands are so located that they are more accessible. Other areas may possess attributes not found in some of the Federal areas. It is contemplated that the State could designate certain State land areas as wilderness which would complement the national system and in some cases be more readily available to large numbers of State residents.

Potential wilderness areas were identified in accord with the several factors listed in the Commission's planning guide "An Approach to Planning a Wilderness System in Alaska, Appendix C." In addition, several other factors, concerns, and approaches were considered in the primitive lands analysis and the identification and selection of potential wilderness areas in Alaska. These included:

1. Initial identification of primitive areas regardless of quality or land ownership.
2. Quality evaluation of all primitive or roadless areas considering a number of factors related to recreational attributes of primitive lands (Appendix D).
3. Evaluation of lowland areas with concern to assure a qualitative range for primitive lowland areas as well as scenic mountain areas.
4. Consideration of wildlife species generally requiring spacious primitive habitat.
5. Consideration of scientific interest in a variety of natural landscapes and ecosystems.
6. Exclusion of large aggregates of privately owned land around communities (Appendix F).
7. Exclusion of many areas of known or potential commercial value to mitigate resource use conflicts to some degree (Appendix F).
8. Exclusion to some extent of areas most strongly involved in rural subsistence activities.

9. Feasibility of wilderness designation, not avoiding all potential conflicts. Feasibility relationship with land use categories (Appendix E).
10. Categorization of potential wilderness areas by land ownership, quality, other prospective land use, and identification source (Appendix G).

Products from this effort include:

A map (Appendix I) - Primitive Lands Quality Evaluation - which delineates exclusions of the major areas of non-primitive lands as well as differentiates major zones of essentially primitive lands evaluated as to quality with respect to recreational attributes. This map was made from larger scale more detailed maps. Small villages and lesser areas of intrusions that are not primitive are not shown as exclusions on this map.

The list of potential wilderness areas in Appendix J and as indicated on the map entitled "Alaska Wilderness System -- An Initial Identification of Suitable and Potential Wilderness Areas," represents many of the finest areas in Alaska where wilderness quality is a major attribute in addition to other natural, historic or recreational values.

A second map (Appendix K) portrays the selected identified potential wilderness areas listed in Appendix J. The areas vary in scenic quality, though most are good to high quality. They also contain a great variety of ecological, geological, zoological, and botanical features as well as key or important wildlife habitats.

This portrayal by list and map can be considered as a first cut of all of the primitive lands in the State attempting to separate out areas where higher quality is indicated, expression of interest has been made, and the areas tend to include unique features or a greater variety of natural features, important wildlife habitats, and many areas of scientific interest. Relatively small areas of equal value may not appear on the map. It is anticipated that additional smaller areas will be identified in future years as some Alaska lands are more intensively studied.

Certain judgments were made in delineating area boundaries on this map. Potential areas have been drawn to exclude areas surrounding village or urban centers for the most part, where man's works tend to be concentrated, though some portions of these excluded areas are rated as having good qualities. Some lowland and low mountain areas have been included but many large areas of similar terrain have not. Nor have all high mountain areas been included.

While an entire island or a large area may be identified as having potential for wilderness designation, further study and evaluation might recommend only a portion or portions instead, and some areas may not be found suitable. It may also be desirable to delete some areas or

portions to allow for recreational facilities or more intensive recreation uses, or for other reasons.

The accompanying appendixes identify many of the factors considered in developing the potential wilderness areas listed and delineating areas on the map.

WILDERNESS PLANNING POLICIES

The complexities identified of considering a statewide system of wilderness in a very large state richly endowed with prime quality primitive lands raises the need for policies to guide the development of such a system.

In its previous discussions or actions regarding wilderness, the Commission has supported certain concepts regarding a wilderness planning process. It has made specific recommendations regarding wilderness studies in its national interest lands (d-2) recommendations to the Congress.

Altogether, the Commission's policy with respect to wilderness planning and designation embodies the following concepts and points.

1. A diversified statewide system of wilderness areas be supported.
2. Wilderness designation should generally be in conjunction with areas recognized as having other special natural values to be preserved or conserved.
3. A comprehensive preliminary assessment to determine areas of prime wilderness potential is appropriate to identify such areas for further study and to serve as a statewide context for further evaluation of specific areas and development of a statewide system.
4. Existing or proposed units of the following systems or areas in other land categories should be further studied and evaluated for areas of wilderness suitability in the context of developing master management or land use plans for units or through multiple use planning and classification as appropriate:
 - a. National Park System
 - b. National Wildlife Refuge System
 - c. National Forest System
 - d. Other special national reserve classifications
 - e. State Park System
 - f. National Resource Lands
 - g. National Petroleum Reserve in Alaska
 - h. Other State lands
5. Wilderness studies on (d) (2) lands should be accomplished with reports to Congress within three years after establishment of proposed new national parks, wildlife refuges, forests or additions

to existing units, and over a longer period for candidate areas on other Federal lands.

6. Wilderness proposals now pending Congressional action should continue to be monitored by the Commission during its remaining existence with testimony presented when deemed necessary.
7. The Commission should encourage wilderness studies of selectively identified State and Federal lands and monitor such activities.

APPENDIX A

National Reserves Existing at the Time of Passage
of the Wilderness Act or Subsequently Established and Current Status
Regarding Wilderness Area Recommendations

<u>Name of Area</u>	<u>Acreage</u>	<u>Wilderness Area</u>	<u>Wilderness Acreage</u>	<u>Status*</u>
Mt. McKinley NP	1,939,492			Deferred ¹
Katmai NM	2,792,137	2-areas	2,603,547	Proposed
Glacier Bay NM	2,803,611	2-areas	2,225,481 ⁶	Deferred ²
Sitka National HP		None		No action ³
Bering Sea NWR	41,113	1-area	41,113	Established
Bogoslof NWR	390	1-area	390	Established
Forrester Island NWR	2,832	1-area	2,832	Established
Hazy Islands NWR	42	all	42	Established
St. Lazaria NWR	65	1-area	65	Established
Tuxedni NWR	6,400	1-area	6,400	Established
Aleutian Islands NWR (part)	1,722,170	several islands	1,395,357	Proposed Deferred ⁴
Arctic NWR	8,900,000			
Chamisso	641	1-area	455	Established
Cape Newenham NWR	265,000	1-area		Proposed
Clarence Rhode NWR	2,817,000			Deferred ⁴
Hazen Bay NWR	6,800			Deferred ⁴
Izembek NWR	415,000			Deferred ⁴
Kenai N. Moose Range	1,730,000	Andy Simon	829,000	Proposed Deferred ⁵
Kodiak NWR	1,815,000			Not Recom- mended
Nunivak NWR	1,109,400			Proposed
Semidi NWR	8,400	all		Established
Simenonof	10,400	all	25,145 ⁶	
Unimak Island (part of Aleutian Islands NWR)	998,260	1-area	973,000	Proposed

Established wilderness areas in Alaska total 76,442 acres

*Status: Established -- (by an act of Congress)
Proposed -- Pending Congressional action
Deferred -- See specific footnotes

Footnotes:

1. Wilderness study deferred pending Congressional action on proposed additions to the park in order to make a more comprehensive study and recommendations of wilderness and development aspects.
2. President asked Congress to defer action on wilderness proposal pending further mineral surveys.
3. Area did not meet study criteria.
4. Wilderness study deferred because of unsettled land patterns from pending Native land selections, and proposed additions.
5. Wilderness study deferred pending Native land selections and resulting land ownership pattern.
6. Includes marine water acreage in part.

APPENDIX B-1

National Forest Wilderness Study Areas
Designated by the Forest Service

	<u>Approximate Acreage</u>
Chugach National Forest	
Nellie Juan	703,000
Tongass National Forest	
Russell Fiord	227,000
Tracy Arm - Ford's Terror	900,000
Petersburg Creek	24,000
King Salmon Capes	120,000
Granite Fiords	591,400
Khaz Bay	<u>40,000</u>
TOTAL	2,605,400

The Tongass and Chugach Forests total about 19.7 million acres excluding Native land selection entitlement and lands the State may select pursuant to the Statehood Act.

November, 1977

APPENDIX B-2

Other Areas Identified for Potential Wilderness or Roadless Watershed or Recreation Areas on Tongass National Forest Lands by Interested Parties

<u>Area</u>	<u>Approximate Acreage</u> (if known)
Admiralty Island	1,030,000
Anan Creek	39,000
Basket Bay	
Beecher Pass	8,000
Berners Bay	90,000
Chilkat Peninsula (includes Endicott R. and St. James Bay)	
Dall Island	
Duncan Canal	120,000
East Behm Canal	215,000
Etolin Island	
Eudora Mountain	
Harding River	41,000
Heintzleman	53,500
Idaho Inlet-Mud Bay	101,000
Kadake Creek	
Karta	47,000
Lake Eva	12,000
Misty Fiords (includes Unuk R., Blue Point-Lava, Mighty Fiords, and Granite Fiords)	
Mt. Edgecumbe	
Naha	
North Krusof	
Pavlof Harbor	18,000
Port Stewart	23,000
Reflection Lake	13,000
Rocky Pass	72,000
Rynda-Greys Islands	4,000
Salmon Bay	
Sarkar Lakes	
Security Bay	
Skagway	53,000
South Baranof	
Southern Kuiu Island	
Stikine-Le Conte	
Sweetwater-Honker Divide	
Taku River	
Thomas Bay	
Thomas Creek	30,000
West Chichagof-Yakobi	405,000
Yakutat Forelands	300,000
Yes Bay	21,000

APPENDIX C

FEDERAL-STATE LAND USE PLANNING COMMISSION

November, 1973
(Revised 10/25/75)

From Primitive Lands to Designated Wilderness Areas An Approach to Planning a Wilderness System in Alaska

Primitive Lands and Some Considerations for Wilderness Designation

Planning:

1. By design
2. Not default (leftovers)

Types of primitive lands to be considered:

1. Highly scenic areas oriented towards compatible recreation activities.
2. Areas to preserve various ecosystem types in Alaska for baseline research, critical habitat, or other values.

Size - Units of various sizes are appropriate:

1. Very large - Alaska possesses the Nation's major opportunity to have any wilderness areas in this category.
2. Large
3. Medium
4. Small

Location related to recreational utility:

1. Some close to population centers
2. Remote areas

Distribution:

Both large and small areas to be scattered throughout the State to the extent possible.

Variety and Representation related to natural features and processes:

1. Physiographic Provinces (12)

- | | | | |
|-----|------------------------|---|-------------------------|
| a. | Coast Mountains | } | Pacific Mountain System |
| b. | Coastal Trough | | |
| c. | Pacific Border | | |
| d.1 | Alaska | | |
| d.2 | Aleutian | } | Intermontane Plateaus |
| e. | Northern Plateaus | | |
| f. | Western Alaska | | |
| g. | Alaskan Mountains | | |
| h. | Bering Shelf | } | Rocky Mts. System |
| i. | Seward Peninsula | | |
| j. | Arctic Mountains | | |
| k. | Arctic Foothills | | |
| l. | Arctic Coastal plain - | } | Interior Plains |

2. Ecosystem Types (broad)

- a. Terrestrial (10 types)
- b. Lake - freshwater
- c. Riverine - freshwater
- d. Marine - (7 types)

Administrative Categories:

- 1. National Wildlife Refuge System Wilderness
- 2. National Park System Wilderness
- 3. National Forest System Wilderness
- 4. Other Federal (potential)
- 5. State (potential)

Restrictions related to administrative categories, and other purposes of units, tastes and preferences of user groups, and to the requirements of law:

- 1. Hunting allowed
- 2. No hunting
- 3. Motorized vehicles allowed (certain places, certain kinds)
- 4. No motorized vehicles
- 5. Restricted scientific areas
- 6. Prospecting permitted or not
- 7. Other

Access as a key to people use:

Key access points identified

- a. Land
- b. Water

Quality Evaluation Chart for Primitive Values

EXPLANATION OF RATING CRITERIA

- ① **Intrusions.** This criteria measures the degree of impact man has had on the land and the potential for restoration to a natural condition.
- ② **Scenic Quality.** Use the rating identified in the Scenery Quality evaluation.
- ③ **Wildlife.** The variety of large mammals present in the area is used as an indicator of quality of experience. Following is a partial list of large mammals that should be considered in the evaluation:

Antelope	Elk
Beaver	Fisher
Bobcat	Fox
Big Horn Sheep	Javelina
Bison	Lynx
Burro	Moose
Caribou	Mountain Goat
Cougar	Musk Ox
Coyote	Wild Horse
Dall Sheep	Wolf
Deer	Wolverine

 Eagles, swans, geese, etc.
- ④ **Fisheries.** The criteria is designed to measure the probable success a fisherman may expect in the area. Use the fishing quality evaluation as a basis for these ratings.
- ⑤ **Water Usability.** This criteria has reference to the usability of water as a form of transportation and as a source of interest and excitement, i.e., white water boating. Examples of desirable water attractions are:
 - A rather extensive white water river system.
 - A series of inter-connecting lakes that could be used for canoeing, etc.
- ⑥ **Size.** This criteria is designed to measure the degree of isolation a visitor could experience. The size and general character of the area are the two variables which are used to measure this.
- ⑦ **Uniqueness.** Use this factor to compensate for values not recognized in the other criteria. Is there something (not considered elsewhere) different or unusual about this area which would significantly add to the wilderness experience? The rater has the option to add whatever points he feels is necessary to give a feature a valid rating. Any score beyond 6 must be explained in the remarks column of the Quality Rating Score Sheet.

Quality Evaluation Chart			
PRIMITIVE VALUES			
KEY FACTORS	RATING CRITERIA AND SCORE		
① INTRUSIONS	Pristine or nearly so. Evidence of man's activities are minimal. 6	Some roads or other intrusions. But good potential for restoration. 4	Limited capacity for restoration but still some potential. 2
② SCENIC QUALITY	Most of the area falls in the Class A. 5	Most of the area is Class B or higher. 3	Most of the area is Class C. 2
③ WILDLIFE	<i>birds and</i> Large mammals present. Opportunities for viewing excellent. Generally 10 or more species. 3	<i>birds and</i> Large mammals present. Opportunities for viewing restricted. Generally less than 10 species present. 2	<i>birds and</i> Large mammals lacking or nearly so. 1
④ FISHERIES	Potential for high fisherman success. Generally 3 or more desirable species. A major attraction. 3	Potential for moderate fisherman success. Mostly "B" class fishing opportunities. 2	Little or no potential for fisherman success. Mostly Class C opportunities. 1
⑤ WATER USABILITY	Water bodies large enough to accommodate non-mechanized boating use and are a dominant attraction. 3	Same - except not dominant attraction. 2	Water bodies not large enough to accommodate boating. 1
⑥ SIZE	Greater than 50,000 acres or excellent opportunities for isolation. 6	Between 5,000-50,000 acres or good opportunities for isolation. 4	Area less than 5,000 acres. 1
⑦ * UNIQUENESS	Unique 6+	Rare 4	Common 1

*Compared to other similar type areas in the region.

A = $\frac{21}{10}$ or more B = $\frac{16-20}{20}$ C = 8-15

INSTRUCTIONS (See Sec. 1 for general procedures)

Purpose: To rate the quality of experience that a wilderness user can expect in the area.**How to Identify Primitive Values:** Consider the following characteristics in identifying primitive areas: (Also see 6221.)

1. Contains natural, wild, and undeveloped lands in a setting essentially removed from the effects of civilization.
2. Has outstanding opportunities for solitude or a primitive and unconfined type of recreation.
3. Is of sufficient size as to make practicable its preservation and use in an unimpaired condition.
4. May also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

How to Determine Minimum Suitability for Evaluation:

- A. Evaluate all roadless areas over 5,000 acres in size.

- B. Evaluate roadless areas smaller than 5,000 acres if they are bounded by natural barriers that provide a feeling of isolation and if they contain high quality wilderness features identified in the rating criteria.
- C. Evaluate large areas that have some impact from roads and other intrusions but contain other high quality wilderness features, should be evaluated.

How to Delineate Rating Areas: Use physiographic features such as large drainage basins, mountain ranges, etc. wherever possible. Place areas with similar characteristics into separate rating areas. For example, an area having no roads may form a rating unit providing all other factors are equal. Give emphasis to delineating large areas rather than small ones.

APPENDIX E

Land Use Categories Affecting Wilderness Potential
and Wilderness Area Boundaries

1. Cities and towns
2. Villages
3. Large private landholdings
4. Military reservations (air bases, forts, maneuver areas, gunnery and bombing ranges)
5. High value agricultural soils
6. High value forage areas
7. High value mineralized areas
8. High value commercial timber lands and logged over areas
9. Areas suitable for intensive use and occupancy
10. Navigable rivers
11. Major lakes
12. Critical mountain passes
13. Important transportation and utility corridors
14. Intensive use subsistence areas where motorized vehicles are used
15. Hunting areas requiring mechanized transportation
16. Key hydroelectric or water development sites
17. Waterfowl or other wildlife habitats with potential for manipulation to increase productiveness
18. Areas well suited for private recreation sites
19. Key harbor areas and approaches

APPENDIX F

Feasibility Relationship of
Potential Wilderness Designation to General
Land Use Categories

1. Occupancy lands--private or potentially private lands, intensively used subsistence areas, allotment tracts, homesteads, headquarters sites, and trade and manufacturing sites, military reservations.

Potential for wilderness designation: low probability for trade-offs except for small individual tracts.

2. Resource lands--commercial timber areas, areas highly favorable for location and development of oil and gas, many metalliferous minerals, and some common minerals, most suitable agricultural soils, etc.

Potential for wilderness designation: moderate probability for some trade-offs. Strong support will exist to retain most such lands in State or private ownership or unreserved Federal status for commercial development.

3. Resource areas--general wildlife habitat, hydroelectric dam and reservoir sites, noncommercial forest, general rangeland, transportation and utility corridors.

Potential for wilderness designation: moderate to good probability for trade-offs in some areas.

4. Rivers, lakes, coastal waters, and submerged lands--fishery habitats, transportation routes, favorable resource location and development areas.

Potential for wilderness designation: moderate probability for trade-offs in some areas; low probability for waterways with intensive existing use.

January 29, 1976

APPENDIX G

Categorization of Potential Wilderness Areas by Land Ownership,
Quality, Other Prospective Land Use, and Identification Sources

1. Primitive areas regardless of quality of the primitive values of the area.
2. Areas identified by government agencies, organizations, or individuals on existing reserves.
3. Primitive areas of (d) (2) or (d) (1) lands that possess good to high quality primitive values.
4. Primitive areas of State lands that possess good to high quality primitive values.
5. Primitive areas on Native selected lands that possess good to high quality primitive values.
6. Primitive areas within utility corridors.
7. Primitive areas with potentially strong conflicts with other resource use.
8. Primitive areas with some apparent likelihood of being considered and supported for wilderness status.

APPENDIX II

Potential Wilderness Management Agencies

Federal:

Congressionally designated wilderness areas on Federal lands are administered as follows:

1. National Park System units--National Park Service
2. National Forests--Forest Service
3. National Wildlife Refuge System--Fish and Wildlife Service
4. National Resource Lands--Bureau of Land Management

Congress has provided for the above agencies to review, study and make recommendations for or against wilderness on lands administered by the agencies.

State:

At present there is no wilderness classification category among the several categories for use or disposition of State lands. Any such area proposed over 640 acres in extent would require legislative enactment.

Wilderness is considered in management of State Parks. Park master plans may zone areas to be managed as wilderness. The Kachemak Bay State Wilderness Park which adjoins the Kachemak Bay State Park was specifically enacted as a wilderness area.

Conceivably, State designated or legislated wilderness areas could be administered by:

1. Division of Parks
2. Division of Lands
3. Department of Fish and Game

January 1977

APPENDIX I

Federal-State Land Use Planning Commission

Map: Primitive Lands Evaluation
Recreationally Oriented

Legend and Notes (See map on next page):

Quality Rating

A - High

B - Good

C - Low

E - Excluded because of intrusions and alterations

NOTE: The quality rating of primitive lands in this analysis reflects several factors that would generally make a mountain, upland, or lowland area more appealing as a wilderness to persons interested in wilderness recreation. Factors considered are: degree of man made or caused intrusions, scenic quality, wildlife diversity, presence and variety of fisheries, water usability for surface travel, size of area, and uniqueness.

Lower rated areas relative to recreational opportunities in some cases might be considered suitable or important for certain scientific or wildlife purposes.

Many small areas that are not primitive such as villages or old mining sites are not shown on this map as exclusions. This "E" scale map was derived from original map work on 1:250,000 scale maps that are part of the Alaska Resources Inventory overlay series.



Utukok-Colville

Moatak Valley

Baird Mountains:
Salmon-Hunt
Squirrel

Cape Krusenstern

Bering Land Bridge (Seward Peninsula)
Imuruk Lava Fields
Devil Mountain

Kobuk Sand Dunes-Waring Mountains

Kateel River

Nogahabara Sand Dunes-Three Day Slough

Kanuti

Ray Mountains

Yukon Flats (upper Yukon basin)
Hodzana
Beaver Cr.
White Mountains

Charley River

Salcha-Goodpaster

Granite Tors

Sulukna

Kaiyuh

Innoko

Beaver Mountains

Kiokluk-Chuilnuk Mountains

Andreafsky

Yukon-Kuskokwim Delta
Aphrewn River (Clarence Rhode National Wildlife Range)

Nunivak National Wildlife Refuge: Mt. Roberts-Cape Mendenhall

Cape Newenham National Wildlife Refuge (existing)
Osviak River (proposed addition)

Ahklun-Kilbuck Mountains:

Kisaralik
Kanektok
Togiak
Wood-Tikchik

Katmai National Monument (existing and proposed additions)

Western proposed addition
Southern proposed addition
Kulik Lake-Kamishak River proposed addition

Becharof

Aniakchak Caldera

Pavlof

Izembek National Wildlife Refuge (existing)

Unimak Island (Aleutian Islands National Wildlife Refuge)

Aleutian Islands National Wildlife Refuge (selected islands and parts)

Koniuji Islands

Semidi National Wildlife Refuge

Kodiak National Wildlife Refuge

Afognak Island (Chugach National Forest)

Barren Islands

Lake Clark:

Redoubt-Iliamna
Merrill Pass-Chakachamna Lake
Nekons River
Stony River
Twin Lakes-Turquoise
Mulchatna-Chilikadrotna
Lake Clark-Kontrashibuna

Revelation Mountains

Mount McKinley National Park (existing and proposed additions)

Denali
Toklat
Denali-south (proposed southern addition)

Cathedral Spires (proposed addition)
Herron-McKinley (proposed north addition)
Kantishna Hills (proposed north addition)
Clearwater Fork (proposed north addition)
Teklanika (proposed north addition)

Denali State Park:
Curry Ridge
Chulitna River

Kashwitna-Sheep Rivers

Chugach State Park

Lake George

Kenai National Moose Range
Andy Simon
Swanson River-Swan Lake
Mystery Creek

Kenai Fjords-Harding Ice Field

Kachemak Bay State Park

Chugach National Forest (existing and proposed additions)
Nellie Juan
College-Harriman Fjords
Kayak Island
Lower Copper River

Klutina-Tonsina

Lowe-Tsina

Wrangell-St. Elias
Wrangell Mountains
Chugach Mountains
St. Elias Mountains
Nabesna-Chisana

Glacier Bay National Monument

Alsek

Tongass National Forest (existing and proposed additions)
Yakutat
Russell Fjord
Yakutat Forelands
Endicott River
St. James Bay
Admiralty Island
Idaho Inlet-Mud Bay

West Chichagof-Yakobi
Pavlof Harbor
North Kruzof
South Baranof
Kadake
Tebenkof
Rocky Pass
Petersburg Creek
Tracy Arm-Fords Terror
Duncan Canal
Stikine-LeConte
Etolin Island
Misty Fjords
 Unuk River
 Granite Fjords
 Boca de Quadra
 East Behm Canal
Sweetwater-Honker Divide
Sarkar Lakes
Salmon Bay
Karta
Eudora Mountain
King Salmon Capes
Dall Island

February 2, 1976
(Revised July, 1977)
(Revised Dec., 1977)

APPENDIX J

FEDERAL-STATE LAND USE PLANNING COMMISSION

Part 2

Selected Primitive Areas Statewide for
A Potential Wilderness System in Alaska

Listed by Physiographic Province:

Arctic Coastal Plain

1. Arctic N. Wildlife Range - coastal plain
2. Teshekpuk Lake
3. Kasegaluk Lagoon (part)

Arctic Foothills

1. Arctic N. Wildlife Range - foothills portion
2. Phillip Smith Mountains: Ivishak - Ribdon - Accomplishment (part)
3. Etivluk (part)
4. Utukok - Colville (part)
5. Cape Lisburne

Arctic Mountains (Brooks Range)

1. Arctic N. Wildlife Range - Brooks Range portion
2. Marsh Fork Canning - Old Woman Cr. (part)
3. Phillip Smith Mountains:
Ivishak - Ribdon - Accomplishment (part)
Junjik - East Fork Chandalar - Koness (part)
Wind

4. Gates of the Arctic:
Itkillik
N. Fork Koyukuk
John
Alatna
Walker Lake
Schwata Mountains (S. Slope)
Upper Kobuk (part)
Upper Noatak
Kurupa - Killik
Okokmilaga

5. Etivluk (part)
6. Utukok - Colville (part)
7. Noatak Valley
8. Baird Mountains:
Salmon - Hunt (part)
Squirrel (part)
9. Cape Krusenstern (part)

Northern Plateaus

1. Arctic N. Wildlife Range - upper Coleen River
2. Old Woman Cr. (part)
3. Phillip Smith Mountains: Junjik - East Fork Chandalar - Kones (part)
4. Kanuti (part)
5. Ray Mountains
6. Yukon Flats
Hodzana
Beaver Cr.
White Mountains
7. Charley River
8. Salcha - Goodpaster
9. Granite Tors
10. Nabesna - Chisana (part)

Western Alaska

1. Kanuti (part)
2. Upper Kobuk (part)
3. Baird Mountains:
 Salmon - Hunt (part)
 Squirrel (part)
4. Kobuk Sand Dunes - Waring Mountains
5. Cape Krusenstern (part)
6. Katcel River
7. Nogahabara Sand Dunes - Three Day Slough
8. Kaiyuh
9. Innoko
10. Sulukna
11. Beaver Mountains
12. Andreafsky
13. Kiokluk - Chuilnuk Mountains
14. Ahklun - Kilbuck Mountains:
 Kisaralik (part)
 Kanektok (part)
15. Mt. McKinley N. Park:
 Denali (existing Park) (part)
 Herron - McKinley
16. Lake Clark: . Mulchatna - Chilikadrotna
17. Becharof (part)
18. Izembek (part)
19. Unimak Island (part)
20. Chamisso N. Wildlife Refuge (existing wilderness)

Seward Peninsula

1. Bering Land Bridge:
Imuruk Lava Fields
Devil Mountain

Bering Shelf

1. Yukon-Kuskokwim Delta - Aphrewn River
2. Nunivak Island; Mt. Roberts - Cape Mendenhall
3. Bering Sea N. Wildlife Refuge (St. Matthew Island) (existing wilderness)

Ahklun Mountains

1. Ahklun - Kilbuck Mountains:
Kisaralik (part)
Kanektok (part)
Togiak Wood - Tikchik
2. Cape Newenham N. Wildlife Refuge

Aleutian Range

1. Katmai N. Monument and proposed additions
2. Becharof (part)
3. Aniakchak Caldera
4. Pavlof
5. Izembek N. Wildlife Refuge (part)
6. Unimak Island (part) (part of Aleutian Islands NWR)
7. Aleutian Islands N. Wildlife Refuge (selected islands and parts)
8. Koniugi Islands
9. Semidi N. Wildlife Refuge
10. Bogoslof N. Wildlife Refuge (existing wilderness)
11. Simeonof N. Wildlife Refuge (existing wilderness)

Alaska Range

1. Lake Clark:
 - Redoubt - Iliamna
 - Merrill Pass - Chakachamna Lake
 - Nekons River
 - Stony River
 - Twin Lakes - Turquoise
 - Lake Clark - Kontrashibuna
2. Revelation Mountains
3. Mount McKinley National Park and proposed additions
 - Denali (existing park) (part)
 - Toklat (existing park)
 - Denali South
 - Cathedral Spires
 - Kantishna Hills
 - Clearwater Fork
 - Teklanika
4. Denali State Park - Chulitna River
5. Nabesna - Chisana (part)
6. Tuxedni N. Wildlife Refuge (existing wilderness)

Coastal Trough

Southcentral Alaska Portion:

1. Kenai N. Moose Range.
 - Andy Simon (part)
 - Swanson River - Swan Lake
2. Denali State Park: Curry Ridge
3. Kashwitna - Sheep Rivers
4. Wrangell-St. Elias: Wrangell Mountains

Southeast Alaska Portion:

1. Admiralty Island (part)
2. Kadake
3. Tebenkof
4. Rocky Pass

5. Duncan Canal
6. Etolin Island (part)
7. Sweetwater - Honker Divide
8. Sarkar Lakes
9. Salmon Bay
10. Karta
11. Eudora Mountain
12. King Salmon Capes
13. Dall Island
14. Hazy Islands N. Wildlife Refuge (existing wilderness)
15. Forrester Island N. Wildlife Refuge (existing wilderness)

Pacific Border Ranges

Southcentral Alaska Portion:

1. Kodiak N. Wildlife Refuge
2. Afognak Island (Chugach N. Forest)
3. Barren Islands
4. Kachemak Bay State Park
and Kachemak Bay State Wilderness Park
5. Kenai Fjords - Harding Icefield
6. Kenai N. Moose Range
Andy Simon (part)
Mystery Creek
7. Chugach State Park
8. Lake George
9. Chugach National Forest:
Nellie Juan
College - Harriman Fjords
Kayak Island
Lower Copper River

10. Klutina - Tonsina
11. Lowe - Tsina
12. Wrangell - St. Elias:
Chugach Mountains
St. Elias Mountains

Southeast Alaska Portion:

1. Yakutat:
Russell Fjord
Yakutat Forelands
2. Alsek
3. Glacier Bay N. Monument
4. Endicott River
5. St. James Bay
6. Idaho Inlet - Mud Bay
7. West Chichagof - Yakobi
8. Pavlof Harbor
9. North Kruzof
10. South Baranof
11. St. Lazaria N. Wildlife Refuge (existing wilderness)

Coast Mountains

1. Admiralty Island (part)
2. Tracy Arm - Fords Terror
3. Petersburg Creek
4. Stikine - LeConte
5. Etolin Island (part)
6. Misty Fjords
Unuk River
Granite Fjords
Boca de Quadra
East Behm Canal

Appendix I.

DRAFT

January 15, 1975

Resource Analysis
of
Primitive Lands and Waters
in Alaska

As Related to Recreation
and Preservation Opportunities

This draft has not undergone any refinement or correction since prepared in December 1974.

RESOURCE ANALYSIS

Primitive Lands and Waters - Wilderness Area Potential

I. Resource Identification

A. Primitive Lands and Waters

Such lands and waters are defined primitive by virtue of the absence of no or little disturbance by modern man through his activities.

Primitive areas can be evaluated basically for three general orientations: (1) Outdoor recreation; (2) Wildlife perpetuation (certain species); and (3) Scientifically valuable natural outdoor laboratory.

Quality evaluation of primitive areas for recreational values could be based on many criteria but the following developed by the Bureau of Land Management include most aspects of interest to the primitive area recreationist.

The value of primitive lands and waters to wildlife is in terms of continuing natural conditions and habitats necessary for the well being of certain species. For instance, grizzly

Quality Evaluation Chart for Primitive Values

Quality Evaluation Chart			
PRIMITIVE VALUES			
KEY FACTORS	RATING CRITERIA AND SCORE		
① INTRUSIONS	Pristine or nearly so. Evidence of man's activities are minimal.	Some roads or other intrusions. But good potential for restoration.	Limited capacity for restoration but still some potential.
	6	4	2
② SCENIC QUALITY	Most of the area falls in the Class A.	Most of the area is Class B or higher.	Most of the area is Class C.
	5	3	2
③ WILDLIFE	<i>birds and</i> Large mammals present. Opportunities for viewing excellent. Generally 10 or more species.	<i>birds and</i> Large mammals present. Opportunities for viewing restricted. Generally less than 10 species present.	<i>birds and</i> Large mammals lacking or nearly so.
	3	2	1
④ FISHERIES	Potential for high fisherman success. Generally 3 or more desirable species. A major attraction.	Potential for moderate fisherman success. Mostly "B" class fishing opportunities.	Little or no potential for fisherman success. Mostly Class C opportunities.
	3	2	1
⑤ WATER USABILITY	Water bodies large enough to accommodate non-mechanized boating use and are a dominant attraction.	Same - except not dominant attraction.	Water bodies not large enough to accommodate boating.
	3	2	1
⑥ SIZE	Greater than 50,000 acres or excellent opportunities for isolation.	Between 5,000-50,000 acres or good opportunities for isolation.	Area less than 5,000 acres.
	6	4	1
⑦ * UNIQUENESS	Unique	Rare	Common
	6	4	1

* Compared to other similar type areas in the region.

A = $\frac{21}{1}$ or more B = $\frac{16-20}{2-5}$ C = 6-15

INSTRUCTIONS (See Sec. .1 for general procedures)

Purpose: To rate the quality of experience that a wilderness user can expect in the area.**How to Identify Primitive Value:** Consider the following characteristics in identifying primitive areas: (Also see 6221.)

1. Contains natural, wild, and undeveloped lands in a setting essentially removed from the effects of civilization.
2. Has outstanding opportunities for solitude or a primitive and unconfined type of recreation.
3. Is of sufficient size as to make practicable its preservation and use in an unimpaired condition.
4. May also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

How to Determine Minimum Suitability for Evaluation:

- A. Evaluate all roadless areas over 5,000 acres in size.

B. Manual

EXPLANATION OF RATING CRITERIA

- ① **Intrusions.** This criteria measures the degree of impact man has had on the land and the potential for restoration to a natural condition.
- ② **Scenic Quality.** Use the rating identified in the Scenery Quality evaluation.
- ③ **Wildlife.** The variety of large mammals present in the area is used as an indicator of quality of experience. Following is a partial list of large mammals that should be considered in the evaluation:

Antelope	Elk
Bear	Fisher
Beaver	Fox
Bobcat	Javelina
Big Horn Sheep	Lynx
Bison	Martin
Euro	Moose
Caribou	Mountain Goat
Cougar	Musk Ox
Coyote	Wild Horses
Dall Sheep	Wolf
Deer	Wolverine

Eagles, swans, geese, etc.
- ④ **Fisheries.** The criteria is designed to measure the probable success a fisherman may expect in the area. Use the fishing quality evaluation as a basis for these ratings.
- ⑤ **Water Usability.** This criteria has reference to the usability of water as a form of transportation and as a source of interest and excitement, i.e., white water boating. Examples of dominant water attractions are:
 - A rather extensive white water river system.
 - A series of inter-connecting lakes that could be used for canoeing, etc.
- ⑥ **Size.** This criteria is designed to measure the degree of isolation a visitor could experience. The size and general character of the area are the two variables which are used to measure this.
- ⑦ **Uniqueness.** Use this factor to compensate for values not recognized in the other criteria. Is there something (not consider elsewhere) different or unusual about this area which would significantly add to the wilderness experience? The rater has the option to add whatever points he feels is necessary to give a feature a valid rating. Any score beyond 6 must be explained in the remarks column of the Quality Rating Score Sheet.

- B. Evaluate roadless areas smaller than 5,000 acres if they are bounded by natural barriers that provide a feeling of isolation and if they contain high quality wilderness features identified in the rating criteria.
- C. Evaluate large areas that have some impact from roads and other intrusions but contain other high quality wilderness features, should be evaluated.

How to Delineate Rating Areas: Use physiographic features such as large drainage basins, mountain ranges, etc. wherever possible. Place areas with similar characteristics into separate rating areas. For example, an area having no roads may form a rating unit providing all other factors are equal. Give emphasis to delineating large areas rather than small ones.

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bears apparently require large areas relatively free of intensive human use or occupancy to maintain their well being and to reduce bear-human conflicts.

Primitive areas of all kinds are scientifically valuable as base line natural areas. The ratio of disturbed areas to undisturbed areas grows larger each year and there is much yet to be learned about the natural systems of the earth. Relatively undisturbed primitive areas provide for the place and opportunity to learn and a place for comparison between natural and altered or managed situations.

B. Resource Location (Refer to Map PR-16, Scenic Natural and Primitive Values)

Primitive lands and waters are found throughout most of Alaska. In Alaska at present, it is somewhat easier to describe lands not characterized as primitive. Such areas include cities and towns, villages, clusters of structures related to recreation, mining, logging or other resource development, and within transportation corridors.

Six (mostly small) island areas in Alaskan national wildlife refuges totalling about 50,832 acres have to date been designated by the Congress as wilderness areas. Seven areas totalling about 6,082,499 acres have been recommended by the President for wilderness status. These are the Andy Simon - Kenai National Moose Range, Unimak Island and many other islands of the Aleutian Islands National Wildlife Refuge,

Semidi Islands N.W.R., Simeonof N.W.R., Chaminso N.W.R., and
much of Katmai National Monument.

C. Size of Resource

No exact figures are available for the total amount of area in Alaska that remains primitive but approximately 85-90 percent of the States 375 million acres of land and water area remain so at this time.

A range in area size for individual areas is available from small areas of 5,000 to 10,000 acres to a few large areas exceeding 10 million acres.

D. Resource Prospects

Several areas of varying size exist in Alaska with apparent potential for designation as wilderness areas.

E. Resource Quality

Resource quality of most Alaskan primitive areas is considered high to excellent with respect to character, wildlife present, and size. This applies both to highly scenic mountain areas, or to lowlands with river and lake waterways.

F. Resource Quantity

Though 85-90 percent of the State remains essentially primitive in nature, not all of this area can be considered as reasonable potential for wilderness designation. Some areas are much more appealing in terms of scenic quality, wildlife, water activity opportunities and other values, than are other areas. Some areas are more important to the perpetuation of wilderness oriented wildlife, and some areas are more valuable as natural outdoor laboratories. Several areas, though primitive in character, would have little appeal as dedicated wilderness.

Additionally, potential wilderness acreage will be further limited by conflicting overlaps with important potential resource development areas, proposed transportation corridors, and other land uses.

II. Maintenance Requirements

A. Integrity

For lands and waters to retain maximum primitive character and values, they must not be violated before or after designation as wilderness or primitive areas. Normally, this means exclusion of roads, motorized vehicles, timber harvest, mining,

and other similar activities that would alter the lands or their primitive atmosphere. Recreational pursuits must also be compatible.

Natural processes such as lightning started fires, flooding, animal predation, and others are generally allowed to function without interference.

B. Allowable Uses

Destruction or modification of primitive values by allowable uses must be prevented. Suitable recreational and scientific research activities must be controlled within acceptable physical, ecological, and psychological carrying capacities.

C. Designation of Wilderness Areas

Because of the usually constant pressures to develop resources within potential wilderness areas, and the current ability to rapidly alter the character of an area, it appears desirable to designate many prime wilderness areas in Alaska during this decade. Several suitable areas are presently identified and others will be within the next few years following additional study and resolution of some conflicts.

III. Economic and Broad Social Considerations

A. Demand

1. World - There is increasing recognition of wilderness values, designation of wilderness areas, and use of such areas. This is true even in many newly developing nations.
2. United States - New areas are being designated annually by Congress subsequent to agency studies of roadless areas pursuant to the Wilderness Act of 1954, and Presidential recommendations. Congressional review and action has been rather slow to date. Demand for and use of wilderness areas in the United States is steadily increasing.
3. Alaska - Demand for wilderness areas in Alaska is high. This demand is partly by residents but mostly by other U.S. citizens. Designation before alteration or destruction of prime areas occurs is the major concern. Heavy use of several areas is many years away.

B. Demand Trend

1. World - Growing demand.
2. United States - Continuing demand.
3. Alaska - High demand.

C. Supply

1. World - Limited supply of significant or suitable and available areas.
2. United States - Limited supply of significant or suitable and available areas.
3. Alaska - Limited supply of significant or suitable and available areas. Only state of United States with potential for large wilderness areas individually exceeding two million acres.

D. Existing and Likely Uses

1. Existing uses.

Wildlife and wildland oriented recreational activities, use as wildlife habitats, subsistence hunting, trapping, and mineral exploration are the principal present uses of the primitive lands in Alaska except those areas where little or no use at all occurs.

2. Likely uses.

Designation of certain primitive lands as wilderness would preclude all uses except wildlife and wildland

oriented recreational activities. Sport and subsistence hunting and fishing would likely be allowed in several areas. Nonmanipulative scientific research would occur in some areas.

Local residents would account for some use of these areas but tourists from the other United States and foreign countries will likely account for the majority of use and in the near future.

E. Development and Use Requirements

Existing wilderness areas, primitive areas, and potential wilderness areas are generally closely tied to significant natural feature land and waters. Recreational use of these areas will take place and increase without any special development according to present trends. Since many areas will likely be associated with national or state parks, wildlife refuges, or national forests, developments of various kinds within these areas will tend to provide access and attract additional wilderness users. Trails and river bridges would add further inducement for use.

F. Prospects for Development and Use

Prospects are good for identification and establishment of a number of wilderness areas in the near and mid future (1-10 years). Areas established beyond 10 years from present

will probably be compromised from their present potential in scope and size.

G. General Description of Development Patterns

Only light or modest capital investment is seen for allowed facility development in Alaskan wilderness. Manpower, aircraft, and boat investments for management and law enforcement purposes will become greater as recreational use increases.

Most labor or capital investment will involve other lands or programs than the wilderness areas themselves.

Administration of a wilderness will introduce a few new jobs to a locale, but establishment of a wilderness will not generally reduce local unemployment.

An established wilderness however, does attract visitors which in turn allows development of local guide service for hunting, fishing, float boating or other back country trips.

IV. Environmental Factors

Wilderness designation or management as primitive lands generally requires a continuence of present or improved water and air quality within, into, or emanating from the area.

Most natural ecological processes are allowed to run their course.

Manipulation of habitat is precluded which may bring about changes in wildlife populations in response to increasing or decreasing food supplies.

V. Gains and Losses From Courses of Action

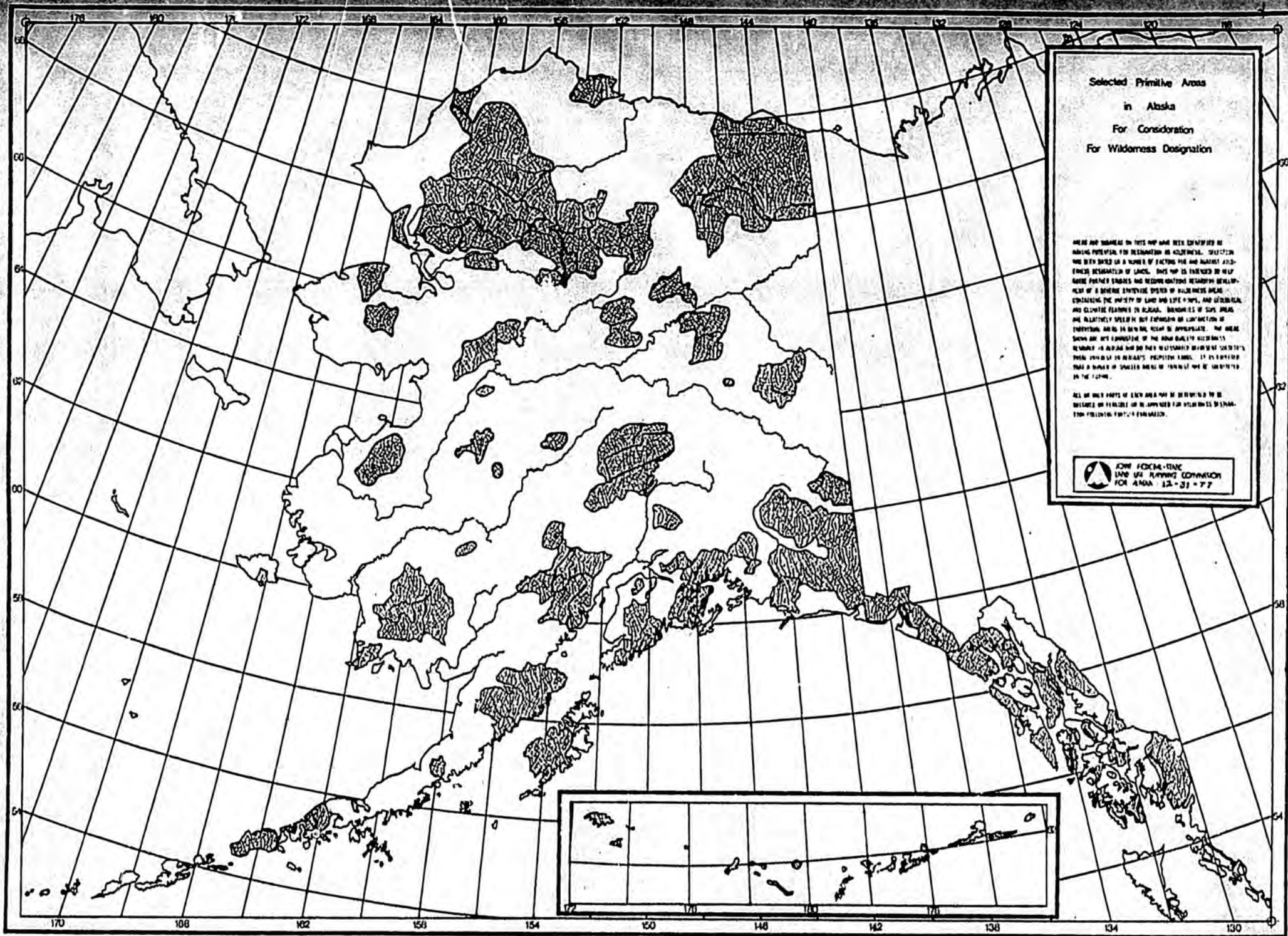
A. Gains From Designation of Primitive Lands or Wilderness

1. Some of one of Alaska's great resources---its primitive character---would be preserved.
2. Prime primitive areas would be dedicated for their values and safeguarded from loss of values.
3. Space for primitive area oriented species of wildlife would be assured.
4. Scientific values inherent in primitive areas would be safeguarded in dedicated areas.
5. Recreational opportunities available in primitive areas would be provided.

B. Losses From no Designation of Primitive Lands

1. The converse of items A1-5 might occur.

2. A gradual eroding of the primitive lands resource would occur as lands were used for other purposes diminishing the amount or quality of the resource.
3. Wilderness oriented species of wildlife could diminish from loss of habitat and pressures from other resource uses.



MEMORANDUM

May 12, 1978

FROM: Dr. Lidia L. Selkregg, Professor of Regional Planning

REF: Transmittal of Preliminary Report on Cooperative Institutions

TO: Joint Federal-State Land Use Planning Commission

The attached report was prepared in compliance with a contract negotiated between the Joint Federal-State Land Use Planning Commission and the University of Alaska, Anchorage.

The document summarizes the concerns expressed by governments and citizens regarding the needs for the development of innovative mechanisms for land classification and management. The brief evaluation made in Part I reflects that most agencies and governments are in agreement in regard to this issue, but approaches for solution to the problem are different as reflected in the D-2 land bills introduced and debated in the Congress.

Part II is a brief presentation and evaluation of the Commission functions and highlights the major topics that the Commission has dealt with as part of its legislative mandate. The section concludes with the recommendation that the Commission direct its attention to this as a prime concern regardless of the amount of land that will be placed in the four National Systems.

Part III is the report provided by consultants who participated in a workshop/seminar that took place in March 1978. During the review of the material available for the preparation of this report, it became evident that an objective review of the topic was needed from people not connected with the D-2 land issue and residing outside the State. Therefore with the agreement of the co-chairman, I organized and coordinated the workshop/seminar that took place last March and selected the competent individuals who participated in the exercise; Drs. Steiss, Hackett, Catanese, and Professors Callies and Hand. I have included "in toto" their reports because I think that their comments, even if brief and prepared in the limited time provided by our contract (5 days for conducting the seminar and preparation of the report), are important for the Commission's continued involvement in this topic.

The extensive material presented in the appendices is to refresh the Commission's memory on their important accomplishments and concerns for this topic through the years.

My hope is that the Commission will review this draft and add their insight and knowledge on this issue. The topic is of such a magnitude that extensive work could be prepared to reflect all alternatives, possibilities, and potentials for cooperation among agencies or establishment of new institutions. However, the debate in the Congress will conclude in the next few months and a final decision must be reached; therefore the Commission must be prepared to develop the expertise that will allow for the flexibility required to present alternatives to Congress on this issue which would benefit the federal, state, and local governments and would be accepted by the citizens.

May 12, 1978

pg. 2

TO: Joint Federal-State Land Use Planning Commission

As a natural scientist and a planner, I know that it is only through a wholistic approach to land classification and management that we can protect the environment. Secretary of Interior, Cecil D. Andrus, in January of this year stated this as part of his testimony before the Senate Committee on Energy and Natural Resources;

"Now in Alaska we have an opportunity to look to the future as we learn from the past. Alaska is a rare second chance for us as a people -- a chance to preserve a major portion of our natural heritage -- to strike a balance between extracting important natural resources and protecting our last great region of wildlands."

I agree with him, but I think that the present congressional debate on the number of acres to be placed in the "Four Systems" has polarized politicians and interested public to the point of disregarding the importance of looking for new ways of not repeating past mistakes. Within the present pattern of land and water ownership within the State, there is no way that a whole ecosystem, watershed or river basin can be protected through the restrictive zoning of only one owner. The present regulatory systems of all owners must be coordinated, integrated in a wholistic management framework so that all decisions can be related to an overall management system that considers all factors of environmental concerns.

This report is in a preliminary form; I would recommend that the Commission review it and add their comments in regard to: 1) Commission performance; 2) recommendation for the future cooperative institutions.

The Commission's work has been excellent; their knowledge of Alaska is great; and only the Commissioners can truly state its assets and limitations.

PRELIMINARY REPORT
ON
COOPERATIVE INSTITUTIONS

By
Dr. Lidia L. Selkregg
Professor of Regional Planning
University of Alaska

May 1978

Awareness of the need for careful planning of how land is used has developed from an increasingly complex set of conflicts arising from competing demands and from conflicts between particular uses of the land and environmental effects. Conflicts over how land is used have been intensifying in recent years, and concepts of what land use planning is all about have been changing accordingly. Land use planning is still seen by some as basically a professional activity leading to a set of plans designating specific and limited uses for all time. What is emerging, however, is a concept of land use planning as a process of regulating conflicts over how land will be used and of designating steps that must be taken by a user to prevent environmental degradation. (TOWARD A LAND USE PLANNING PROCESS FOR ALASKA, 1974; report to the Joint Federal-State Land Use Planning Commission prepared by Public Affairs Counseling)

PART I

NEED FOR COORDINATION IN LAND CLASSIFICATION
AND MANAGEMENT

PART I

NEED FOR COORDINATION IN LAND CLASSIFICATION AND MANAGEMENT

During the extensive debate on the D-2 land issue that has taken place in Congress and in the public forum of Alaska and the Country, minor attention has been given to a most important issue--the development of innovative approaches to land classification and management that would reflect the increasing public concern with these issues. For the last ten years the country has been concerned with the way we regulate the use of land and has become aware that land use controls developed at the turn of the century are no longer in keeping with the increased population pressures on open space, water and air, or with the demand for protection of areas subject to the impact of resources development. This concern of governments and people is not unique to the United States or Alaska and can only be solved through the development of new institutions, laws, or management systems that can integrate the participation of local, regional, state and federal governments in major decisions directed to the allocation of land and resources for various uses. To date, the protective fear of the various land managers at the local, state and federal levels, along with concerned but divided and self-serving citizen interests, have prevented the development of an open dialogue that can lead to the changes needed to solve the problems of government or agency mandates that do not fit into established geographic jurisdictions but rather should be evaluated in view of natural and social-economic systems.

Some states, working with local governments, have taken strong leadership in developing new tools to deal with state and municipal lands. Hawaii, Vermont and Maine have adopted statewide land regulations.

Other states have adopted controls only for critical areas; some have regulations directed to protection of shorelands, around lakes or waterways, or have adopted innovative legislation directed to such types of land development as placement of dams, airports, housing, or other key facilities.¹ The federal government has increased citizen participation in the land classification process, ~~has~~ developed methods to deal with regional problems and differences through the establishment of regional organizations--commissions or authorities-- , ~~has~~ made institutional changes in agency mandates such as the recently passed BLM Organic Act, and has developed laws aimed at fostering cooperation among land managers, such as the Coastal Zone Management Act, the Water Resources Planning Act, and the Sikes Act.

In the Alaska context, the problem of coordination of land classification and management among the various land owners is not "the problem of 'scale' that arise when functions spill over state boundaries,"² but is the issue of "scale" of a state with a land mass one-fifth the size of the United States, two-thirds of the total coastline of the Country, and where ownership of land, when allocation of lands required by the Native Claims Settlement Act and Statehood Act are completed, will be close to 58% in federal ownership, 28% in state ownership, and just over 11% private, including native-owned lands (Figure 1). It is the problem of "scale" of a state where regional governments--organized boroughs and home rule unified municipalities--with planning and zoning authority range in size from an estimated 1200 square miles--Bristol Bay Borough--to 88,281 square miles--North Slope Borough, larger than many states (Figures 2 and 3); and where

¹ Fred Bosselman & David Callies, 1971. THE QUIET REVOLUTION IN LAND USE CONTROL. Council of Environmental Quality.

² Martha Derthick, 1974. BETWEEN STATE AND NATION REGIONAL ORGANIZATION OF THE UNITED STATES. Brookings Institution.

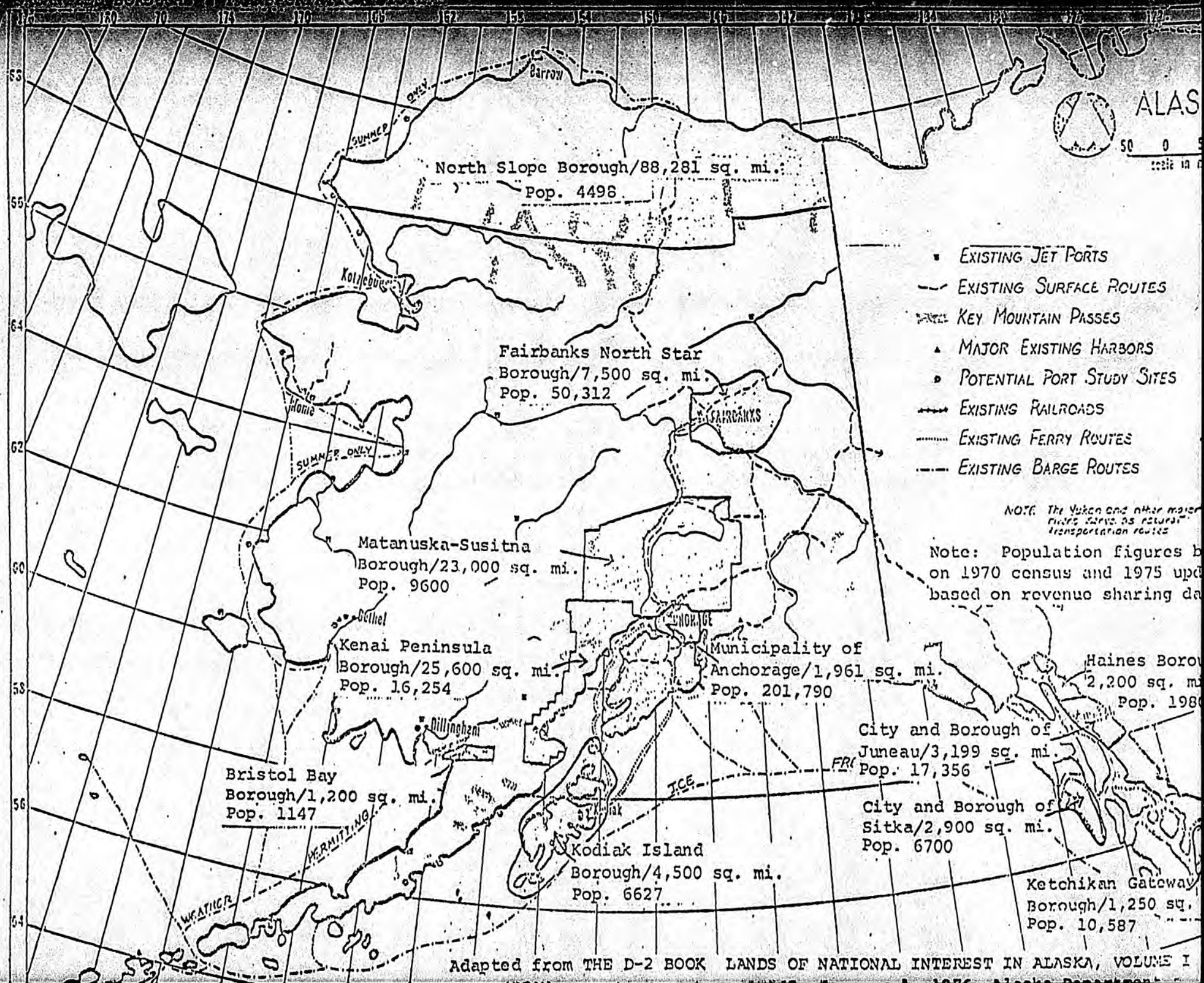
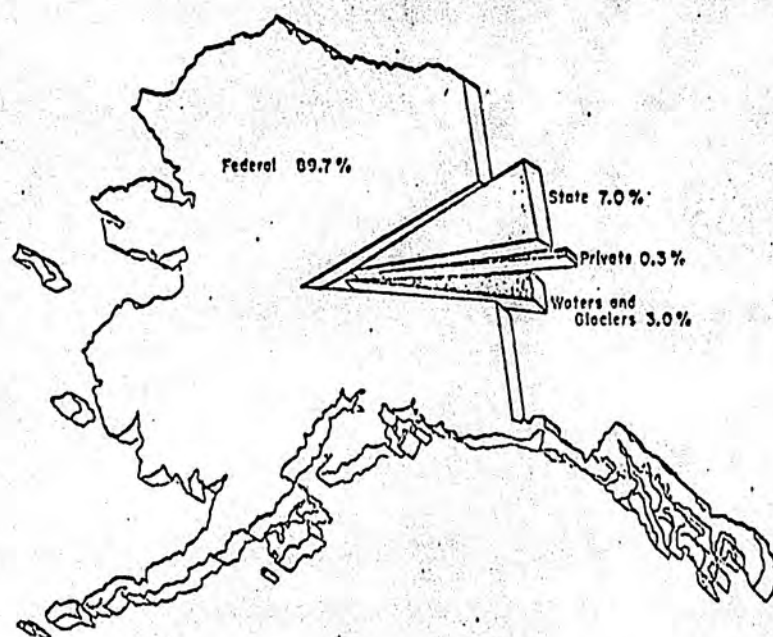
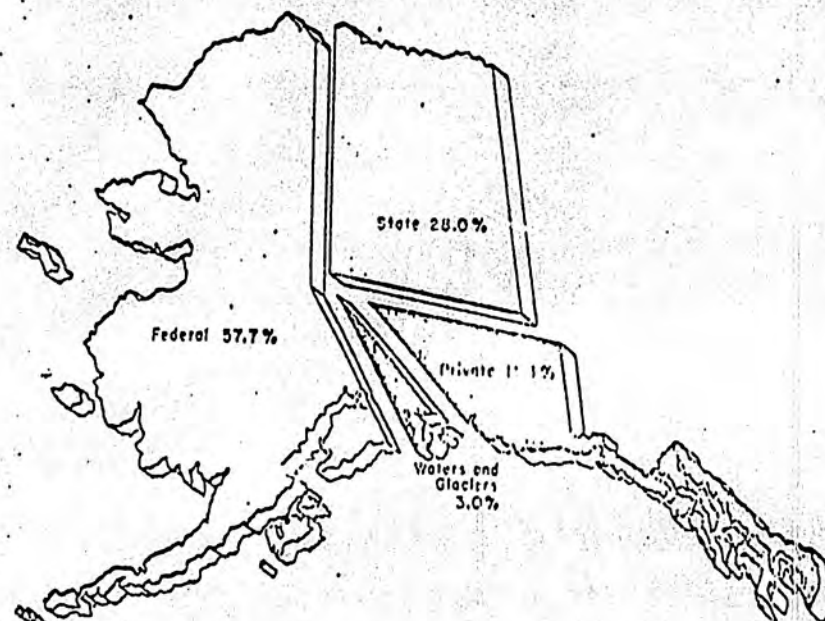


FIGURE 1
ALASKA'S LAND OWNERS



Alaska's Land Status—1971



Alaska's Land Status—1984

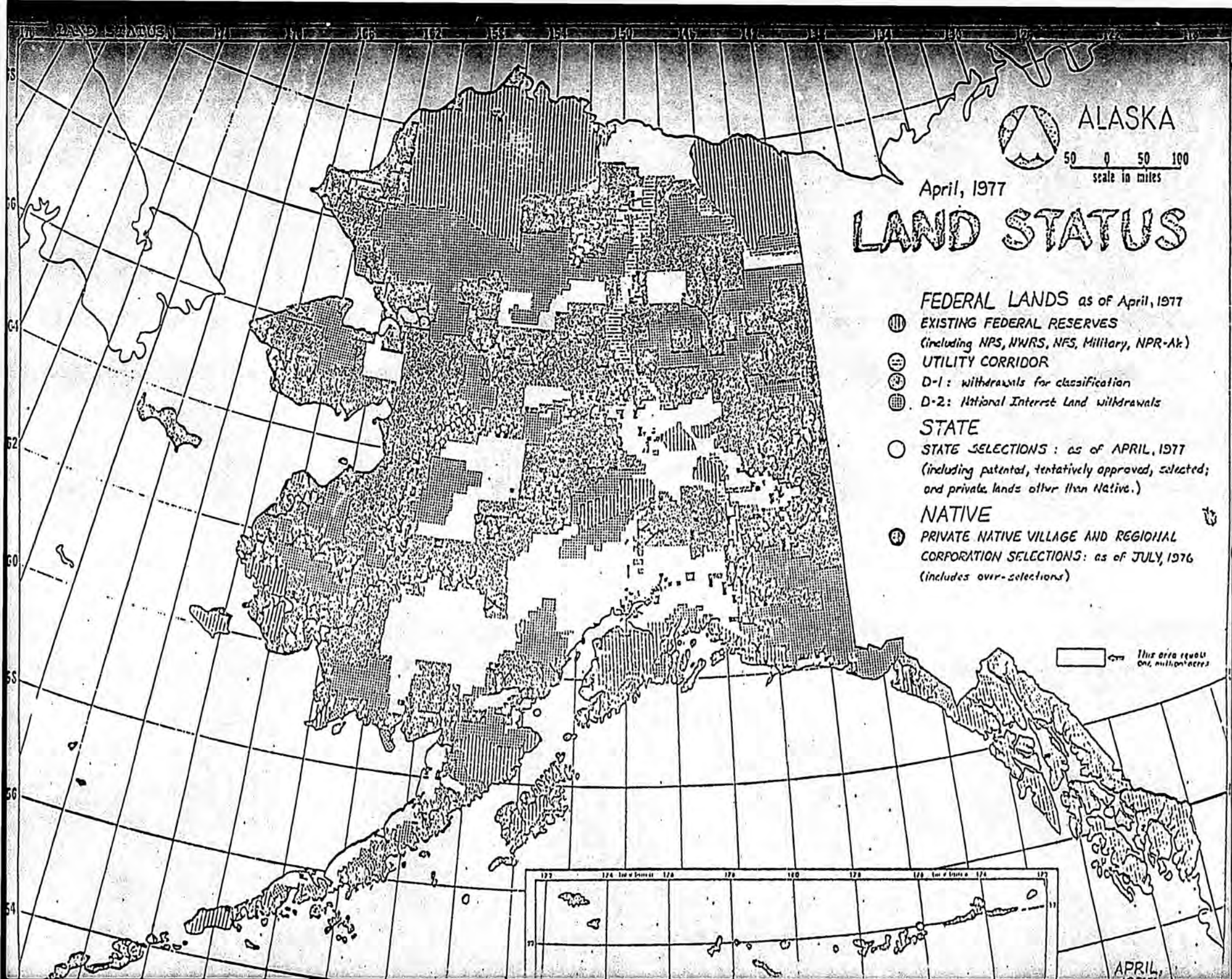
TOTAL AREA: Approximately 586,000 square miles

Adapted from the ALASKA REGIONAL PROFILES, 1973-76. Lidia L. Selkregg, et. al, University of Alaska.

FIGURE 3
SIZE COMPARISON OF ALASKAN BOROUGHs AND MUNICIPALITIES

Organized Boroughs and Municipalities	Estimated Size/ Square Miles	Other States	Estimated Size/ Square Miles
North Slope ¹	88,281	Connecticut	5,009
Bristol Bay ²	1,200	Delaware	2,057
Fairbanks North Star ²	7,500	Idaho	83,557
Kenai Peninsula ²	25,600	Kansas	82,264
Ketchikan Gateway ²	1,250	Maine	33,215
Kodiak Island ²	4,500	Nevada	77,227
Matanuska-Susitna ²	23,000	New York	49,576
Haines ³ (No planning authority)	2,200	Rhode Island	1,214
Municipality of Anchorage ⁴	1,961	South Dakota	77,047
City & Borough of Juneau ⁴	3,100	Tennessee	42,244
City & Borough of Sitka ⁴	2,900	Vermont	9,609

¹Home Rule; ²Second Class Borough; ³Third Class Borough; ⁴Unified Municipality



private owners--Alaska Natives and others--will own lands in key areas of prime value for natural preservation, mineral development, subsistence, access to major parks, communities and centers of commerce (Figure 4).

Can federal, state and local/private interests be protected?

Interests, that vary from the desire to preserve wildlife, wilderness, scenic and other natural values at one end, to the demand placed on the state by the national objectives on energy development, the need for important minerals, the desire to preserve a subsistence culture, and the demand of a growing population on the other!

Can federal/state/local agency mandates continue to ignore conflicting regulations, overlap of regulations and services, the cost of gathering data base separately and with unrelated goals and objectives?

Can federal, state and local governments continue to plan for land use, management and disposal without a coordinated planning process that considers effective public participation, regional differences, and the effects that land use decisions by one government will have on the institutions outside that government's jurisdiction?

These questions are not new. In fact, they were among the questions asked by the Public Land Law Review Commission (PLLRC) created by Congress in 1966 (Public Law 88-606) to make a comprehensive review of laws, rules, policies and practices of the federal agencies in regard to the administration of public lands. The Commission's report "One Third of the Nation's Land" points out the importance of re-evaluating policies and institutions

dealing with the management of the public domain. In the recommendations related to "Coordination and Public Review of Public Land Plans and Programs," clearly points out the concern of the Commission with the lack of coordination in land use planning among the federal agencies, other units of government, and the general public.

Public Participation

Recommendation 11: Provision should be made for public participation in land use planning, including public hearings on proposed Federal land use plans, as an initial step in a regional coordination process.

Federal Interagency Coordination

Recommendation 12: Land use planning among Federal agencies should be systematically coordinated.

State and Local Roles

Recommendation 13: State and local governments should be given an effective role in Federal agency land use planning. Federal land use plans should be developed in consultation with these governments, circulated to them for comments, and should conform to state or local zoning to the maximum extent feasible. As a general rule, no use of public land should be permitted which is prohibited by state or local zoning.

Financial Assistance to States

Recommendation 14: Congress should provide additional financial assistance to public land states to facilitate better and more comprehensive land use planning.

Regional Commissions

Recommendation 15: Comprehensive land use planning should be encouraged through regional commissions along the lines of the river basin commissions created under the Water Resources Planning Act of 1965. Such commissions should come into existence only with the consent of the states involved, with regional coordination being initiated when possible within the context of existing state and local political boundaries.³

³ONE THIRD OF THE NATION'S LAND, 1970. A report to the President and to the Congress by the Public Land Law Review Commission.

In discussing the recommendations dealing with the creation of Regional Commissions, a separate section directed to the recognition of the unique problems of Alaska states:

*"A joint Federal-state natural resources and regional planning commission should in any event be established for Alaska. We have concluded that generally the public land laws dealing with the retention and management or disposition of public lands and their resources should apply equally in all states where the public lands are located, including Alaska. In that state, however, the situation is entirely different with regard to planning for the future."*⁴⁰

In Chapter Fifteen, we discuss the land grants made by the Alaska Statehood Act⁴¹ to that state. There is a program for the state to select certain public lands until 1984. It is essential that, during the period the selection process continues, there be carefully coordinated planning between the Federal Government and the state, a fact to which we also give recognition in Chapter Twenty dealing with organization, administration, and budgeting.

We note these facts here in order to indicate that the general recommendation for coordination by Federal land management agencies with local and state governments must be strengthened and the State of Alaska given a greater role in planning the future uses of the public land base, since a significant part of that land base will belong to the state in the future.

The State of Alaska needs many facilities, such as

roads, port developments, and, ultimately, schools, hospitals, and all the other facilities that service people. It is essential, in furtherance of the objectives of the Statehood Act, to allow the Alaskan people to determine the patterns of geographic growth and development within the state through the process of the state selection program. Approximately 98 percent of the state is now federally owned; but, we must never lose sight of the fact that even after the selection process has been completed, the Federal Government will still own approximately two-thirds of the state.

The emphasis given to the state's desires and needs underscores the Federal responsibility to plan for the retention and management or disposition of the lands that it will have after the selection process is completed, in a manner not to thwart the state's effort to chart its own destiny. Planning of this type requires close coordination with the state in order to assure that no undue burdens are placed on the state for the construction of facilities in areas where the state is not ready to proceed with development. We have a unique opportunity, while state selections are being made, to make joint plans with the state for the proper development of the state consistent with the maximum safeguards for the environment that exists there."⁴²

⁴⁰ University of Wisconsin, *Federal Land Laws and Policies in Alaska*, Ch. VII, PLLRC Study Report, 1970.

⁴¹ 72 Stat. 339, as amended by 74 Stat. 1024, 78 Stat. 168.

⁴² ONE THIRD OF THE NATION'S LAND, 1970. A report to the President and to the Congress by the Public Land Law Review Commission.

The problems resulting from lack of coordination between federal, state and local governments in developing land use policies directed to land use, classification, and project development were cited by Senator Jackson on January 29, 1970 when he introduced S3354, a bill directed to amend the Water Resources Planning Act (79 Stat. 244) to include provisions for a National Land Use Policy. In his presentation to Congress Senator Jackson stated:

"At the Federal level we are already beginning to see and to reap the results of our past failure to have developed a consistent national land-use policy. Increasingly we are finding instances where Federal funds which have been expended to preserve a part of our natural heritage or to create new recreational opportunities are coming into serious and, often, totally unnecessary conflicts with other federally funded programs such as highway and airport construction, communications, national defense facilities, and water resource development.

I am not too concerned that there is occasional conflict between these different Federal programs. The wide range of goals and objectives which the National Government seeks to achieve will, of necessity, involve some competition and conflict over priorities, over funding, and over the use of a specific land resources. Our political system was designed to resolve conflicts of this nature. I am confident that it is capable of doing so in an intelligent manner.

I am, however, very concerned that many of these conflicts which have centered around incompatible uses of the same land resources have been totally unanticipated and unintended. These conflicts have simply been the result of poor planning procedures. They have not placed at issue important questions of national priorities, goals, and objectives. These conflicts have resulted from a lack of coordination; a failure to relate national programs to local aspirations; and an institutional inability to factor in the full range of national and local values as a part of the planning process for specific Federal projects."⁵

⁵ S 3354 "Introduction of the National Land Use Policy of 1970" by Senator Jackson. Congressional Record--Senate, January 29, 1970.

It was the recommendations of the PLLRC and the efforts of Senator Jackson that guided the Alaska delegation during the debate leading to the passage of the Alaska Native Claims Settlement Act in 1971. It became evident that to be able to cope with the immense problems related to land distribution, classification, and determination of land use in such an immense state, a state-federal land use commission had to be established. It was as a result of this concern that the Joint Federal-State Land Use Planning Commission for Alaska was established as part of Section 17(a) (1) of the Alaska Native Claims Settlement Act⁶. Because of the concern for an overall planning approach to solve local problems and special land issues the Commission was given the mandate to:

(1) undertake a process of land-use planning, including identification of and the making of recommendations concerning areas planned and best suited for permanent reservation in Federal ownership as parks, game refuges, and other public uses, areas of Federal and State lands to be made available for disposal, and uses to be made of lands remaining in Federal and State ownership;

(2) make recommendations with respect to proposed land selections by the State under the Alaska Statehood Act and by Village and Regional Corporations under this Act;

(3) be available to advise upon and assist in the development and review of land-use plans for lands selected by the Native Village and Regional Corporations under this Act and by the State under the Alaska Statehood Act;

⁶ALASKA NATIVE CLAIMS SETTLEMENT ACT; P.L. 92-203, 92nd Congress, H.R. 10367, December 18, 1971.

(4) review existing withdrawals of Federal public lands and recommend to the President of the United States such additions to or modifications of withdrawals as are deemed desirable;

(5) establish procedures, including public hearings, for obtaining public views on the land-use planning programs of the State and Federal Governments for lands under their administration;

(6) establish a committee of land-use advisers to the Commission, made up of representatives of commercial and industrial land users in Alaska, recreational land users, wilderness users, environmental groups, Alaska Natives, and other citizens;

(7) make recommendations to the President of the United States and the Governor of Alaska as to programs and budgets of the Federal and State agencies responsible for the administration of Federal and State lands;

(8) make recommendations from time to time to the President of the United States, Congress, and the Governor and legislature of the State as to changes in laws, policies, and programs that the Planning Commission determines are necessary or desirable;

(9) make recommendations to insure that economic growth and development is orderly, planned and compatible with State and national environmental objectives, the public interest in the public lands, parks, forests, and wildlife refuges in Alaska, and the economic and social well-being of the Native people and other residents of Alaska;

(10) make recommendations to improve coordination and consultation between the State and Federal Governments in making resource allocation and land use decisions; and

(11) make recommendations on ways to avoid conflict between the State and the Native people in the selection of public lands.

For some of the people in Alaska that had been active in the passage of ANISCA--Native leadership, state legislators, involved citizens, and industrialists--this meant Congress had recognized the Alaska land issue as unique, needing a system of coordination among state and federal governments through the work of a commission with members appointed by the President and the Governor to insure that federal and state objectives could be met. It also was seen as a way to develop a mechanism that would insure state and federal commitment to shared objectives, as well as a mutual recognition of divergent objectives, and that through a statewide planning process would initiate identification of needed institutional changes, development of coordinated budgets and recommend new land management systems that would allow for co-existence of economic development and conservation.

Much has been accomplished since then; however, such key issues as (1) equity in implementing regulations directed to wildlife management and protection and subsistence rights; (2) the need for overall coordination among agencies; (3) mineral accessibility and general access/transportation; (4) conveyance and disposal of lands--federal/state; and (5) designation of wilderness areas still need review. This is why the Joint Federal-State Land Use Planning Commission for Alaska, after extensive staff work and investigation by a subcommittee on September 15, 1977, expressed the following reasons in recommending the establishment of a federal-state commission for Alaska as part of the d-2 legislation (Appendix 1):

"Reasons for Cooperative Management

There is a continuing State-Federal relationship. This did not begin and will not end with the disposition of the d-2 lands.

The land ownership pattern in Alaska is growing evermore complex as a consequence of the implementation of the Alaska Statehood Act and the Alaska Native Claims Settlement Act. Lands owned by the Federal government, the State, Native corporations, and other parties lie adjacent to each other in tracts of varying size which do not necessarily follow rational boundary lines. This intermixture of land ownership can easily jeopardize prudent management. A systematic approach to resources which are similar but owned by different parties must be initiated to insure consistent and complementary management.

Private and State lands may be the essential buffer zone for certain of the more sensitive areas in Federal control. In other cases, the Federal government will own and regulate the mountain tops while the valleys are in State control, or the Federal government will have the wild and primitive areas while State lands will contain the people. Cooperative management is essential to protect the commonality of interest and to protect the national interest.

Resources have been divided by mixed ownership across the surface of the land, and between the surface and subsurface. The State, for example, owns the bed of navigable waterways and tidelands, while the water column within the Federal withdrawals will be controlled by various State and Federal regulations and may be subject to claim under the Federal Reserve Water Rights Doctrine. Ownership of the land surface and the underlying minerals may also be split between private owners and Federal agencies.

Migratory wildlife, e.g., caribou, waterfowl, etc., require extensive habitat that will occur on all land ownerships. Habitat must be maintained, and movement must remain free if these species are to survive.

Even if parks or refuges are contained ecosystems to the extent possible, there will be elements of the ecosystem that cannot be contained in area boundaries. Protection of entire ecosystems, and the full use of new knowledge about those systems will require extensive cooperation.

Issues may have a local significance but are actually regional, statewide or national, and they must be approached from that perspective. These include: (a) Outer Continental Shelf programs; (b) Coastal Zone Management; (c) international fisheries management; (d) marine mammals; (e) energy development; (f) fish and game management; (g) transportation; (h) wilderness study; (i) research; and (j) information systems.

The social, economic, and land use interweave is more fundamental in Alaska than in states with a more developed infrastructure. Any change can have an effect across the State.

National parks will become destination points for tourists. The State will be called upon to provide access and other infrastructure outside the parks. Close coordination and planning will be necessary to permit the State to provide these services without harmful impacts.

Ownership of land in Alaska is concentrated in government and corporate hands. Thus, there is no "grass roots" force to develop means of cooperation.

There are extensive federally owned areas in Alaska which remain largely in their natural state, and have natural values that are clearly of national importance. Nonrenewable and renewable resources found on these lands are largely unevaluated, and their possible importance in meeting future national and international needs for energy, minerals, wood fiber, and food cannot be accurately estimated at this time. The existing Commission has recommended this area be placed in a new classification called Alaska National Lands. Decisions regarding these lands must be made cooperatively, within a national context over time.

Land exchanges between Federal and State governments or between governments and Native corporations may offer a viable solution to certain problems. Cooperative planning is needed to provide the broader perspective to undertake such exchanges. "

"Reasons for a Federal-State Commission for Alaska"

Alaska is unique in being a one-state region as well as a state in which few land use patterns are set. Alaska offers an opportunity to attempt a vital, close, and unique effort in State-Federal cooperation. Thus, State-Federal cooperative planning and management may be evaluated in isolation from problems which emerge from multistate jurisdictions.

A joint Federal-State activity will provide a mechanism to which both the Federal (President, Secretary of Interior, Congress, etc.) and the State government (Governor, Fish and Game Commission, Legislature, etc.) may relate and which will institutionalize communications between the many interests.

Many of the decisions to be made in Alaska are too important, too big to be made within the mission of a single agency or even department. A joint commission will provide an umbrella agency allowing a nondepartmental, cross-functional area review, and a joint planning and coordination that must occur.

The existing record of many agencies in cooperative management is simply not very good. There are tools in existing laws which may be used in cooperative planning and management, but each lacks a third party, a motivating force to insure that dialogue takes place, and, as appropriate, is acted upon. A joint Federal-State commission provides both the vehicle stimulating Federal-State, interagency, and interdepartmental cooperation in and across functional areas such as transportation and fish and game, and energy and parks, and a means of unifying diverse elements into a coherent whole.

One of the major functions of any commission is to provide a public forum for the direct expression of ideas so issues and problems may not be hidden or ignored by line agencies.

State participation on the commission will also insure a meaningful State role in the governmental interface with Alaska citizens. In the absence of such participation, the Federal government would interact alone with private citizens, and many State responsibilities and regulatory approaches could be overlooked in the process. As a consequence, a traditional adjunct of American federalism might be jeopardized.⁷ (Appendix 1)

The recommendations made by members of the Commission result from a long-time concern for the development of new systems that would truly protect the state's rich wildlife habitat, its wilderness beauty, its subsistence lifestyle, and allow for commerce and community growth. In fact, it was during the early stage of policy formulation that the first Citizen Advisory Committee to the Commission, established under Section 17(a)7(f) of the Act, made the following recommendations⁸ when asked to advise the Commission on two high-conflict areas covered by d-2 withdrawals--the Noatak-Kobuk and the Lake Clark-Iliamna areas (Appendix 2):

"Management must be integrated within the general ecosystem impacted by the d-2 proposal. Splintered management and land use would render proper land usage impossible.

Essentially there are four "landowners" involved in most d-2 areas. These are private, Native corporate, State, and Federal. To have an integrated and effective management system, it will be essential that all four owners coordinate their land uses.

To accomplish this will require not only consideration of input from the four owners initially but a continuing, flexible, "planning and zoning" function participated in, ideally, by the four owners. Creation of an additional bureaucratic structure is to be avoided if possible."

In the same memorandum, when referring to issues of access and specific d-2 withdrawals, they stated:

"No specific corridors are recommended at this time, but provision should be made in the classification of these lands for a transportation corridor or corridors for which need may develop. But such corridors should be designated across these lands only in conformance with a statewide transportation plan which has evaluated water, air, and land transportation systems and only after adequate public hearings in the area demonstrate to the satisfaction of the management agency that such corridors present minimal conflict with the primary land use."⁸

⁸"Report of Advisory Committee" in Commission Memorandum No. 73-26, June 12, 1973. Ester Wunnicke, Co-Counsel.

Based on all these factors the Commission has recommended to the Congress that it be succeeded by a Federal-State Land Commission, consisting of five federal and five state members, which would have a ten-year "life" unless extended. The funding of activities of this Commission would be on a 50-50 basis between the state and federal governments. An Executive Coordination Committee, composed of the Secretaries of Agriculture, Defense, Interior, and Transportation, the Administrators of EPA and FEA, and the Federal and State Co-Chairmen of the proposed Commission, is also recommended. This Committee would meet quarterly to coordinate functions of their respective agencies concerning lands and waters referred to in the Act. The Secretary of the Interior would serve as Chairman of this Committee.

In a testimony before the Subcommittee on Fisheries, Wildlife Conservation and the Environment, Committee on Merchant Marine and Fisheries, the Chairmen of the Joint Federal-State Land Use Planning Commission stated:

"The Commission believes strongly that suitable mechanisms for cooperative planning and management must be established in Alaska. The intermingled pattern of land ownership makes cooperative planning essential if adequate environmental protection and proper resource management are to occur. The Council established in Title XI, represents some improvement over coordinating mechanisms found in existing law. The council would institutionalize dialogue between Federal, State, and Native land managers and owners.

The Commission has recommended the creation of a permanent new Federal-State commission with broad statewide planning and advisory responsibilities, as well as classification authority for Alaska National Lands and lands in joint classification areas. Voluntary participation by adjacent private landowners is encouraged in the planning process. The Commission has also recommended that areas of significant natural values and/or resource development, where ownership will be mixed, be jointly classified. Classification of these areas also should be the responsibility of the proposed Federal-State commission. Management responsibilities, after classification, however, should remain with the appropriate Federal and State agencies exercising jurisdiction in those areas.

It now appears that more than one mechanism is needed during the transition period in Alaska. In addition to a Federal-State body, structured much like that recommended by the Commission, there should also be a coordinating body composed of the Federal land managers and other major Federal agencies having interest in Alaska. These two bodies, coupled with a strong State planning capability, would not only allow a coordinated approach to national problems and cooperation and coordination between the Federal and State governments in Alaska, but also would help assure a strong citizen and local government relationship with the State of Alaska.

We are generally supportive of proposals in H.R. 39 to allow the Secretary of the Interior, and where appropriate the Secretary of Agriculture, to provide technical planning, fire suppression, and law enforcement assistance to private landowners who enter into cooperative agreements. Such benefits could be meaningful incentives to cooperative management without impairing Federal interests."⁹

The concerns expressed by the Commission are reflected in all the d-2 land bills introduced in the Congress regardless of the diversity of approaches in the establishment and geographic extent of national parks, wildlife refuges, forests and wild and scenic rivers, or in how to provide for mechanisms to address the issue of access, subsistence, management of fish and game. Co-operative management is directly addressed in the "Alaska National Interest Land Act" (S 1787) introduced by Senator Stevens and supported by the Governor of Alaska, Jay Hammond, and U.S. House of Representative Don Young; in senate bill 2944 introduced by Senator Gravel and in the Administration amendments to H.R. 39, S 500 and S 1500, the Alaska National Interest Lands Conservation Act introduced by Senator Jackson (by request), S 2465.

⁹ Testimony of Walter B. Parker and Esther C. Wunnicke, Co-Chairmen, Joint Federal-State Land Use Planning Commission, before the Subcommittee on Fisheries, Wildlife Conservation and the Environment, Committee on Merchant Marine and Fisheries, April 6, 1978. Washington, D.C.

The Stevens bill would establish an Alaska Lands Classification Commission, composed of four full-time Federal members (one a Native), appointed by the President, and four full-time State members appointed by the Governor. As with the LUPC recommendations, Co-Chairman would be designated and funding would be on a 50-50 basis.

The functions of these Commissions are very similar: (1) inventory, (2) comprehensive land use planning, (3) classification, (4) advise and assist Native corporations, (5) recommendations as to withdrawals, (6) recommendations as to laws, policies, budgets, and programs, (7) promotion of orderly economic development, and (8) coordination and consultation between Federal and State governments in the areas of resource allocation and land use. The LUPC recommendation calls for the conduct of a statewide wilderness values survey and the establishment, classification, and review of joint classification areas.

The Stevens bill calls for the designation of lands classified by the Commission as Federal Cooperative Lands, with agencies designated in Titles 23 through 39 to manage and regulate uses within such lands in accordance with Commission classification and the provisions of the Act. The LUPC recommends the designation of an Alaska National Lands System, with the management of such lands carried out on a basis similar to that of the Federal Cooperative Lands.

The Stevens bill also makes provision for State Cooperative Lands and Private Cooperative Lands, the latter category including lands dedicated for a period of not less than ten years, classified by the Commission, and managed by landowners. With the concurrence of the State, such dedicated lands would be exempt from State and local real property taxes. LUPC recommendations make provision for Joint Classification Areas, consisting of "intermingled Federal, State, and/or privately owned lands outside of units of the five systems referred to in the Act. Privately owned lands would be included only with the owners' consent.

Senate Bill 2465 calls for the establishment of a Alaska Cooperative Planning Commission, to be composed of the field directors of all Federal agencies having jurisdiction over Federal lands in Alaska. With the concurrence of the State, the Commission would also include State land managers, "together with four public members". Of the four public members two are to be appointed by the Secretary of the Interior, two by the Governor; two of the public members must be representatives of Native corporations. In addition to the foregoing members, there is to be a Commission chairman appointed by the Secretary, with the approval of the Governor if the State chooses to participate. The Commission would have no classification authority, but could recommend cooperative planning and management zones.

Thus, there seems to be a clear recognition of the need for some institutional mechanism to carry on the work initiated by the Federal-State Land Use Planning Commission, although there is divergence as to the form of this mechanism. The Stevens bill and the LUPC recommendations seem to be in fairly close accord, whereas the Administration amendments to H.R. 39 envision a somewhat more dominate agency role, largely in an advisory/coordinative realm of activity.

Senate bill 2944 introduced by Senator Gravel reflects strongly the Senator's philosophy:

"It is unfortunate that most of the (d) (2) proposals have merely stimulated a polarized acreage tug-of-war. It is not as important that so many acres go into one conservation system or another as it is to develop processes by which we can make intelligent decisions on what uses are most appropriate for the various lands. Such a process requires study. All resources values need to be evaluated for a given parcel of land. All interest groups need to be brought into decision-making processes. Decisions must be made with a perspective to statewide and national needs and concerns."¹⁰

For these reasons the Senator's d-2 land bill proposes a strong, full-time commission with four members appointed by the President of the United States and four by the Governor of Alaska with a chairman appointed by the President with the recommendations of the Governor and subject to the advice and consent of the Senate.

The bill also provides for the appointment of two native members (one federal, one state) if and when 80% of the land conveyed to the Natives under ANCSA is dedicated by the Native Corporations for jurisdiction under the commission. The commission will have jurisdiction over all federal lands located outside conservation system units and military reservations, over all state lands and over private lands voluntarily placed under its authorities through a process set up by the state. This commission will have all the functions established in the Commission's recommendations and in Senator Steven's bill (S 1787) in regard to resources inventory, planning, land classification, cooperation, etc., but in addition the commission would coordinate the implementa-

¹⁰ Statement by Senator Mike Gravel, Proceedings of Alaska Rural Development Council meeting of July 13-14, 1977.

tion of the various environmental laws such as the Clean Air Act, the Federal Water Pollution Control Act, the Coastal Zone Management Act, and others.

It is not the purpose of this paper to reconcile the differences in the various proposals made for the development of cooperative land classification and management systems; it is an attempt to present the fact that for the last eight years, in the evaluation of the implementation of the Alaska Native Claims Settlement Act, many scientists, administrators, and policy makers have become convinced that the way to classify, protect, and manage lands for a long lasting protection of its natural qualities and long-range economics values, does not rest with traditional zoning classification systems, but with innovative methods of land management which consider individual land uses and environmental issues.

It is also the recognition that for some people in Alaska

"Section 17(d)(2) of the Alaska Native Claims Settlement Act is a reflection of the long and traditional battle in the United States over the issue of whether to conserve or develop natural resources. This polarity of thinking is reaching a crescendo in Alaska over the d-2 issue, with subsistence caught between the two, for what subsistence stands for does not fit either mold neatly."

"Statement by George Allen on behalf of the Rural Alaska Community Action Program, Inc., July 13-14, 1977. Published in TWELVE VIEWS ON D-2, Rural Development Council Publication No. 3, August 1977.

and that this issue must be addressed in the final bill, not as a polarizing factor but as one that can tie the old and the new values of Alaska's culture and resources.

It is the recognition that environmentalists also have expressed the desire for the establishment of a method of cooperation among the various agencies:

"Achieving a higher level of cooperation among state, federal, borough, and private landowners is a major goal in this legislation. Congress and the State Legislature should develop a permanent jointly-supported mechanism for evolving, coordinating, and maintaining such cooperation."¹²

and that the wholistic context of the d-2 issue must be considered by Congress in its final deliberation as well stated by George Matz on behalf of the Fairbanks Environmental Center.

In summary, the Center considers the d-2 issue as more than a wilderness issue. It is an umbrella for all of the many important issues which will determine the future of Alaska. Wilderness is perhaps the handle to that umbrella. Without that handle, it will be difficult to protect ourselves from outside elements."¹³

What are the issues? resource development, transportation, subsistence, retention of open space, protection of critical areas, protection of endangered species, protection of wildlife habitat for resident and non-resident species, urban sprawl, village growth, use of land with arable soils for residential development, depletion of water resources, and on and on and on !

¹²Statement by Robert B. Weeden on behalf of the Alaska Conservation Society. Published in TWELVE VIEWS ON D-2, Rural Development Council Publication No. 3, August 1977.

¹³Statement by George Matz on behalf of the Fairbanks Environmental Center. Published in TWELVE VIEWS ON D-2, Rural Development Council Publication No. 3, August 1977.

Is it impossible to answer these questions by allocating certain uses of land for certain areas today and still insure that the same regulations will apply tomorrow? Can regulations and zoning categories made today respond to the needs of an evolving world which has a population that is doubling every 30 years? Can regulations created by one agency respond to the needs or mandates of owners and managers of adjacent lands? If the intent of the federal government through the d-2 legislation is to preserve the pristine lands of Alaska through allocation into Parks, Refuges, Forests, Wild and Scenic Rivers areas, should the adjacent lands be protected to insure that no harmful impact result from their unplanned development?

These are the questions that should be answered by Congress during the consideration of the d-2 land legislation. These are the questions the state legislature must ask when developing laws directed to strengthen the state's planning capabilities. These are the questions that the environmental groups must ask when lobbying for preservation of an Alaskan way of life and retention of lands of pristine quality within the state.

With the consensus as to the issues, the Congress must evaluate the conflicts that exist in the "institutional" missions of the various federal and state agencies to insure that the intent of the Law that is finally enacted can be implemented with minimal cost and conflicts.

A report prepared in 1974 for the Joint Federal-State Land Use Planning Commission made the following observations that are still valid today:

Federal Agencies

- (1) Unresolved problems inherent in national policy objectives have created conflicts in land management philosophy within the Federal Government and have contributed to inconsistent Federal policy. Pressures to remedy the balance of payments and resource shortages conflict with long-standing preservation attitudes of mission-oriented agencies. Additionally, each mission-oriented agency is competitive, emphasizing a single function or approach in land management; this situation results in a lack in coordination, duplication, and is sometimes wasteful. The implications of inconsistency in Federal policy are particularly important in Alaska where a large percentage of land is in Federal ownership.

- (2) Federal and State Agency Conflicts

At present many different State and Federal objectives result in conflicts between Federal and State approaches to planning and management philosophy. The Federal Government, with large resources at its disposal, has had a long history and tradition of planning and management in its several mission-oriented agencies. By contrast, Alaska, underpopulated and therefore with limited government financial resources available to it, has been relatively dependent and with little opportunity to achieve such extensive levels of government service. National agencies, each custodial and protective in regard to its individual mission, are much more sensitive to natural conservation and environmental interests than the State agencies, which are prone to yield to development pressures. However, in areas of crisis, such as those relating to energy, natural resource shortages and balance of payments deficits, national policy tends to override conservation objectives and favor exploitation of Alaska's natural resources. In this context, the State tends to be a colony at the mercy of inconsistent Federal policies. In addition, the large landholdings of the Federal and State governments limit the economic return in the form of taxes, development, etc. which the State could otherwise obtain from the land.

(3) Competing Interest among State Agencies

A variety of agencies have different approaches to land management based on their respective missions. They compete for control and use of land and often have different values in regard to who, what, and for what purpose land should be used. Planning functions are fragmented into several departments of government, hindering coordination and encouraging inconsistent policy. Potential for friction exists between planning done in operating agencies and more integrated planning performed at the executive or other levels.

(4) State and Local Government Conflicts

Because of the pressure for claims among other competing interests for the land, the State has not filled its full quota of land allowed under the Alaska Statehood Act. This, combined with Native claims made for deficiency lands, makes it increasingly difficult for some urban boroughs and municipalities to obtain necessary land for government services, such as parks and schools, despite the fact that a borough is allowed to petition for 10 percent of the land selected by the State.

(5) Conflicts between Public and Private Organizations

Competing claims between public and private interests continue to occur. These claims are largely being settled in an ad hoc, informal manner (out of court) and are not subject to the scrutiny of the public at large. On the one hand, there is some anxiety on the part of non-natives over allocating such large portions of land to private (Native-owned) corporations; on the other, there is resistance on the part of natives to allocating a portion of their claimed land for public (municipal) services and access. In some cases deficiencies in native

lands have set up conflicts between claims by natives and the desire for protection of that land by conservationists. In other cases, Native claims and the attendant subsistence way of life conflict with some objectives of mission-oriented Federal agencies. Because of the shortage of land, the criteria of contiguity and like kind and character required of claim land cannot often be satisfied, resulting in a checker-board pattern of ownership. Further, some provisions of the Settlement Act purposely encourage such a pattern. This configuration of ownership often does not take into consideration the nature of the land and it is difficult to administer and control. Also, much of this new private land is choice development land and there is little provision for subsequent control over its use, creating the potential for future conflict. In some cases, there may be a tendency for these private corporations to assume de facto the function of local government agencies in providing services, etc., which creates problems in accountability and responsibility. The variety of different (competing) interests of regional corporations arising out of different geographical characteristics, ethnic composition, natural resources and development philosophies makes planning of state-wide systems, (e.g., transportation) difficult.

(6) Competing Interests Among Private Groups

There has been a tendency to treat regional and village corporations as representing a monolithic Native point of view. Many conflicts may be enhanced and dependencies may be created among different regional corporations because of different ethnic characteristics, capacities, and resources. Differences exist from region to region and from village to village with the potential for intra- and inter-regional conflicts. Most of the monetary wealth may accrue to regions rather than villages, spawning a white-collar middle class which may become more distant and hold different values from the village way of life. Provisions for redistribution of wealth among the regional corporations may not prove to be effective mechanisms for eliminating inequities among regions." 14

¹⁴TOWARD A LAND USE PLANNING PROCESS FOR ALASKA. 1974. Report to the Joint Federal-State Land Use Planning Commission by Public Affairs Counseling.

Federal and state agencies in Alaska have already considered the importance of developing cooperative teams. The first interagency planning group, the "Northern Alaska Planning Team," was established in 1971 when the State of Alaska and the Department of the Interior--through the U.S. Bureau of Land Management--joined together to analyze the area north of a line established in Section 10 of the Alaska Statehood Act¹⁵--the Porcupine/Yukon/Kuskokwim line--and to recommend management alternatives for this area. Since then the teams have been developed reflecting an increased desire for cooperation among agencies along with an increased awareness that major issues or tasks can only be solved through a multi-agency coordination approach (Figure 6).

This concern has culminated with the signing of an agreement in May of 1978 between the Governor of Alaska and the State Director of the U.S. Bureau of Land Management to establish a mechanism for joint involvement in the development and management of public lands in the state between state and federal governments (Appendix 3). This agreement covers only those federal lands upon which BLM has authority.

¹⁵ALASKA STATEHOOD ACT.

Therefore, as was well stated by D. Michael Harvey, Chief Counsel, Committee on Energy and Natural Resources in a presentation before the University of Denver "Public Land Law Review Commission Revisited", the cooperation between agencies must be institutionalized at all levels of government to insure continuity and success in developing a stable land use policy.

"Without greater cooperation between federal, state and local levels of government to accomodate truly divergent needs and objectives, the likelihood for creative and enduring programs addressing energy, natural resources and environmental challenges of the years ahead is greatly diminished. Moreover, it is increasingly apparent that the country has neither the luxury of unlimited time, or unlimited resources, in which to provide these programs. The responsibility for devising the kinds of procedures and institutions necessary to accomodate the economic, social and environmental interests of both state and federal government rests with all public officials, at both levels of government.

Where these problems involve the use of federal lands and resources, the Congress has a special responsibility. The challenge is also a great opportunity for progress. . . . legislation should authorize experimentation with Federal State Regional Land Use Planning Commissions. These Commissions would serve as the focal point for all federal-state land and resource planning; these could build on the experience of the Joint Federal-State Land Use Planning Commission for Alaska established by the Alaska Native Claims Settlement Act of 1971 and of the River Basin Commissions under the Water Resources Planning Act of 1965. Only by such a mechanism can we achieve a truly coordinated national land use policy, and meet objectives stated by the Commission PLLRC that: Feeling the presence of an enlarging population, burgeoning growth, and expanding demand for land and natural resources, the American people today have an almost desperate purpose to which their public land and wealth and opportunities of those lands should be dedicated." 16

¹⁶Federal-State Relationships in Federal Land and Resources Management. Remarks of D. Michael Harvey, Chief Counsel, Committee on Energy and Natural Resources, U.S. Senate. Presented at Denver University, April 2, 1977.

FIGURE 6

CORRIDOR PLANNING TEAM

Task: Develop a primary Corridor system plan for Alaska
Authority: Alaska Native Claim Settlement Act (ANCSA)
Lead: Bureau of Land Management (BLM)
Team: BLM, U.S. Geological Survey (USGS), U.S. Fish & Wildlife Service (F&WS), National Park Service (NPS), U.S. Federal Highway Administration (FHA), Bureau of Mines (BOM), Bureau of Indian Affairs (BIA), Heritage Conservation and Recreation Service (HCRS)
Funding: BLM reimbursed participating agencies

PIPELINE IMPACT STATEMENT TEAM

Task: Develop Environmental Impact Statement on the Trans-Alaskan Pipeline
Authority: National Environmental Protection Act (NEPA)
Lead: BLM
Team: BLM, F&WS, State of Alaska Fish & Game (ADFG), HCRS, USGS, NPS, FHA, BOM, BIA
Funding: Reimbursement by applicant Alyeska Pipeline Company

ARCTIC GAS PIPELINE IMPACT STATEMENT TASK FORCE

Task: Develop Environmental Impact Statement on gas line
Authority: NEPA
Lead: BLM
Team: ADFG, FWS, USGS, NPS, FHA, BOM, BIA, HCRS, Department of Transportation (DOT)
Funding: Reimbursement by applicant Arctic Gas Pipeline Co.

NATIONAL PETROLEUM RESERVE ALASKA (NPR-A)

Task: Development of land use plan for NPR-A
Authority: NPR-A Act of 1976
Lead: BLM
Team: BLM, USGS, FWS, NPS
Funding: Special appropriation through BLM

COOK INLET WATER RESOURCES LEVEL B STUDY

Task: Develop water plan for Cook Inlet
Authority: Water Resources Planning Act
Lead: Secretary of the Department of the Interior, and the State Department of Environmental Conservation
Team: BLM, USGS, FWS, BOM, HCRS, NPS, Soil Conservation Service (SCS), Alaska Power Administration (APA), ADFG, Alaska Department of Natural Resources (ADNR), Boroughs, U.S. Forest Service (USFS), Housing and Urban Development (HUD), Environmental Protection Agency (EPA), Institute of Social and Economic Research (ISER)
Funding: U.S. Water Resources Council

ALASKA PEREGRIN FALCON
ENDANGERED SPECIES RECOVERY TEAM

Task: Plan to insure survival of Falcon
Authority: Rare & Endangered Species Act
Lead: U.S. Fish & Wildlife Service
Team: USFWS, ADFG, BLM, Private Consultant
Funding: USFWS; Support by all agencies of own salaries

PART II

THE JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION--

AN OVERVIEW

To develop improved institutional arrangements requires a thorough understanding of current and likely future land use conflicts. Conflicts in this sense can be seen as a series of issues requiring analysis, understanding and resolution. Issues are thus expressions of the dynamic factors of land utilization, and issue analysis becomes the driving force for the formulation of policy alternatives and recommendations on legal or programmatic changes required to mitigate the adverse effects of future conflicts. (TOWARD A LAND USE PLANNING PROCESS FOR ALASKA, 1974; report to the Joint Federal-State Land Use Planning Commission by Public Affairs Counseling)

PART II

THE JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION-- AN OVERVIEW

In the process of considering the establishment of methods or institutions for land classification, management, or coordination of agency activities, the functions of the Joint Federal-State Land Use Planning Commission will be reviewed. The Commission's responsibilities set forth in the Alaska Native Claims Settlement Act are monumental (see pages 11 and 12). They reflect the difficult problems inherent in the implementation of the Act and the magnitude of issues related to land use planning for such an immense state. To be able to respond to the mandate of Congress, the Commission formulated some of the major issues facing land use, management and development in Alaska:

What is the government's role in exploration for minerals, oil and other valuable natural resources?
How does exploration relate to the land management agency and system? Is the system to determine and adjudicate mineral rights fair, just and equitable?

What are the criteria for definition of areas of critical concern?~~What are the criteria for definition of areas of critical concern?~~
~~What are the criteria for definition of areas of critical concern?~~ What regulations are needed to protect areas of critical concern?

What are the criteria to determine the appropriate use of land and classification according to use? How detailed and flexible should classification be? Are criteria to determine use different for areas of critical concern and scarce resources than for other areas?

How can a variety of uses in a single area be encouraged and managed? What land uses are generally compatible? What uses generally exclude other uses? What level of detail is needed to establish compatibility?

How can access and transportation be planned and provided for when access demands based on resource discovery cannot be anticipated?

What is the relationship of the land management system to transportation? Will it be used to implement or negate transportation efforts?

What is the relationship between recreation and transportation? What degree of access can be provided without endangering a recreational resource? How can access along a right-of-way be controlled?

What is the effect of the land management system on the demand for land and its cost in rapidly growing areas? How can its effect be mitigated or enhanced?

Is special legislation necessary for measures to control inefficient development? What regulations are required?

What regulations are needed to protect subsistence lands? Are any uses compatible with subsistence use? What is the relationship between land management and subsistence?

What are the problems of government service delivery in rural regional centers?

How will intensive recreational use of land impact the environment?

What is the appropriate organization for surveillance and control of negative environmental effects?

How should land management be defined?

What are the criteria for determining appropriate mechanisms for land management? How do the characteristics of the land relate to these criteria?

Can a flexible system be used to define Federal and State responsibility in land management? Is reform needed in Federal agencies before such a system can be used?

How can State and Federal land management objectives be reconciled?

How can public and private interest groups' objectives in regard to land management be integrated and reflected in the land management system?

What reorganizational changes are necessary to implement a flexible and coordinated land management system? "16

In order to address these issues, the Commission, with a small staff of professionals and clerical personnel--including economists, lawyers, planners and resource specialists--has prepared resource inventories, position papers and reports; has conducted seminars; has made recommendations to Congress concerning National Interest Lands after having conducted extensive public hearings;¹⁷ has assisted the Native villages and regional corporations in evaluation of land for selections; and has provided the state with assistance in developing a land disposal policy (Appendix 4).

The following review of the Commission functions and performance is presented to insure that in evaluating future mechanisms for coordination of land use classification and agencies' functions, the Commission experience can serve as a guide for positive action.

"The Alaska Native Claims Settlement Act and corresponding state legislation created a pioneering concept for coordinating Federal and State planning, the Joint Federal-State Land Use Planning Commission. While the Commission's effectiveness has not necessarily fulfilled the most optimistic expectations projected for it at its inception, its experience may provide a foundation for further innovation in joint planning and decision-making machinery between the two levels of government."¹⁸

¹⁷Land Planning and Policy in Alaska. Recommendations Concerning National Interest Lands. Committee on Interior and Insular Affairs, U.S. Senate, Committee Print 93rd Congress 2nd Session.

¹⁸Federal-State Relationships in Federal Land and Resources Management. Remarks of D. Michael Harvey, Chief Counsel, Committee on Energy and Natural Resources, U.S. Senate. Presented at Denver University, April 2, 1977.

The Commission met for the first time in August, 1972; the first deadlines for Secretarial withdrawal of lands under Section 17(d)(2) of the Claims Act were only one month away. The need for a data base for this and other impending decisions was apparent. The Commission's own organizational needs had to be met, and there was little precedent governing the operation of a joint agency with the functions and composition of the Commission. The Commission recognized that it was primarily a policy planning organization, and chose its professional staff accordingly.

A wide spectrum of Commission activity was immediately initiated. At the same time that a comprehensive data base was being developed and steps taken to formulate policy planning recommendations to federal and state governments, the organizational details of its formation had begun and response was made to a myriad of demands for assistance in implementation of the Claims Act.

The dual nature of the Commission, the experience and knowledge of its members, the existence of the Northern Alaska planning group of interdisciplinary specialists from agencies of both governments which the Commission could use as its Resource Planning Team, and the participation of interested spokesmen on its Advisory Committee all combined to allow the Commission to initiate varied activities simultaneously. However, not enough time was allowed for the preparation of a long-range plan for the Commission function and administration. Much of the work therefore was done in response to requests at times of critical needs rather than by preplanned programming. In 1974 the Commission hired the Public Affairs Counseling ^{firm} a Division of Real Estate Research Corporation, to analyze Commission performance to that date and recommend a program of action.

Subsequently, a reorganization of the staff was made, new guidelines established; but throughout the years, the administration of the Commission governed under BLM guidelines has not allowed the flexibility of action that such a commission should have to perform to its maximum potential. Also agencies and individuals throughout the ~~years~~ have misunderstood this to imply that the Commission was ~~with~~ an arm or a department of the BLM.

The Commission is headed by two full-time co-chairmen. The federal co-chairman is appointed by the President of the United States and the state co-chairman is appointed by the Governor of Alaska. Both are vested with full authority to decide all matters pertaining to the Commission. All actions of the Commission must have the concurrence of the co-chairmen.

Four commissioners are appointed by the Secretary of the Interior, and four by the Governor of Alaska. The only statutory requirement for membership is that one of the state appointees must be an Alaska Native. From the beginning the Commission members have represented diverse backgrounds and experiences (Appendix 5). Although the expressions of different interest groups and state/federal governments' policies and mandates are found in Commission debate, no individual member can be said to have spoken exclusively for any one interest group and the Commission has worked well together. However, such a deliberative body, composed of individuals with diverse backgrounds and interests, requires time and continuity to become an effective working group. The fact that only four of the original appointees remain on the Commission and that in six years the state has appointed five different co-chairmen and the federal three has been viewed as the cause for interrupted policy implementation and direction to staff. Also, the co-chairmen must have compatible goals and objectives to insure effective staff supervision and coordinated program development.

The Commission has provided a forum for the presentation of federal and state policies and has provided legislative bodies with analysis and policy recommendations. The tasks of the Commission has necessitated close working relationships with existing federal and state land planning and management agencies. In fulfilling these mandates, the Commission has acted as a coordinator and a policy advisor. Because the Department of the Interior has major responsibilities for the implementation of the Claims Act, many of the Commission's policy recommendations have been addressed to the Secretary of the Interior and numerous efforts to coordinate state and Interior Department policies have been made. Other federal agencies with significant Alaska land and resource management responsibilities, such as the National Forest Service, the Department of Transportation, and the Federal Energy Administration, are also involved and addressed in Commission research, coordination, and policy development.

The Commission also has played an integral role in the development of some state land and resource management policies in coordination with the State Division of Lands, Division of Parks, Department of Community and Regional Affairs, Department of Highways, and the Governor's Office of Policy Development and Planning. Relationships with local governments have been minimal. In view of the size of Alaskan boroughs and unified municipalities, the lack of cooperation on land use issues with those governments in the Commission deliberation has been criticized by some elected officials. The Mayor of Anchorage was a member of the first Commission but when he resigned he was not replaced with a municipal legislator.

Advisory Committee--In recognition of the need for citizen input the ANCSA, in Section 17(a)(7)(F) created an Advisory Committee to assist the Commission on land use planning matters and provide the Commission with a citizen viewpoint of its planning activities. This Committee, from the beginning, has brought extensive experience, knowledge and insight on matters pending before the Commission and its membership has included knowledgeable people in the fields of planning, environmental issues, government, and native affairs (Appendix 5).

Commission Activities--The functions of the Commission can be grouped in six activities and operational procedures: resource information, federal land policy, state land policy, implementation of the Alaska Native Claims, cooperative planning, and public dialogue.

Probably, the resource information activities have been among the most successful of the Commission's involvements. As a foundation for its own deliberations and a source of information for all agencies and groups concerned with Alaska's lands, the assembling of a data base was one of the Commission's first actions. The Resource Planning Team of the Commission completed a statewide inventory of all resources in August, 1974. This information was collected from all available sources and has been published in three publications: a 91-volume ALASKA RESOURCES INVENTORY; a summary volume, RESOURCES OF ALASKA: A REGIONAL SUMMARY; and a six-volume series, ALASKA REGIONAL PROFILES, published in cooperation with the State of Alaska²⁰. These publications have served as the base for many of the background studies made by the various agencies to determine and support d-2 land proposals, along with serving as a base for the preparation of

²⁰L. L. Selkregg, et al., 1973-76. ALASKA REGIONAL PROFILES. Set of six. Prepared by the University of Alaska, Arctic Environmental Information and Data Center.

impact statements and environmental assessments prepared by most of the federal and state agencies. To insure the continued updating of this data base and to eliminate duplication in data gathering by state and federal agencies, in 1977 the Commission established an User and Technical Committee for the development of an Integrated Alaska Resource Information System (ARIS) (Appendix 7). The first task of ARIS is to computerize all Profile data to insure that updating could be systematically done.

The objectives of the Computerized Mapping System task force are to:

- (1) design a data base structure including organization of data, the form in which data is stored, data hierarchy, the cross-referencing and associated properties of the data;
- (2) design an information processing system supporting accessing needs and conforming to the data base structure;
- (3) design a flexible data collection methodology which minimizes the difficulty of not having knowledge of the final set of data;
- (4) evaluate data display techniques and develop a set of capabilities to be used in data analysis and display; and
- (5) to plan the ARIS program so that it is a generalized geographically based information system having the capability to handle all geographically oriented problems without being tied to a specific application.

The Alaska Resource Inventory System is an ongoing intergovernmental and interagency effort for which the Commission has served as a catalyst. The success of the demonstration project funded and supervised by the Commission has indicated the efficiency and merit of such a system, and further effort will be undertaken to make the User and Technical Committee for ARIS a permanent federal-state institution.

Cooperative Planning--From the beginning the Commission and staff has participated in meetings with state, federal, and local agencies charged with land or resource management responsibilities, has made recommendations and participated in workshops (Appendix 6). The cooperative planning efforts of the Commission were highlighted by the Mount McKinley project initiated by the Commission in October 1974 to develop guidelines for a cooperative planning and management area south and east of Mount McKinley proposed by the Secretary of the Interior in the Alaska Conservation Act of 1974. This cooperative planning effort involved private landowners, Native corporations, Matanuska-Susitna Borough, the State of Alaska, and federal agencies. The committee assessed the land use, renewable and nonrenewable resources, areas for recreation, as well as holding public meetings. /

Coordination of this project and development of a final plan for implementation was not a success due to the lack of commitments, time and funding of the various participating agencies.

The state has also requested the assistance of the Commission. The Governor has requested the Commission to assume an integral role in developing policies and coordinating planning for the region north of the Yukon River. Among the issues to be considered the Governor included: the conditions under which natural resource extraction should be permitted, the establishment of permanent communities in the Arctic, and access to and through the region, including the management of the North Slope Haul Road, the only existing ground access to the Arctic. This study includes an evaluation of resources, review of existing regional plans, and development of goals, objectives and policies as seen by agencies and the public. From this data the Commission staff is developing a set of recommendations to assist the state and the federal governments in setting an Arctic policy.

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The Commission has ~~been~~ been effective in the establishment of an interagency Ecological Reserve Council which will evaluate some 200 areas on federal, state, and private lands that have been nominated for inclusion in a system of Ecological Reserves in Alaska. With the support of the Ecological Reserve Council, the Commission has concluded the review of the 200 areas ²¹. The Commission co-chairmen have coordinated this effort with the national Federal Ecological Reserve Council and other interested agencies and institutions.

The relationships between transportation and land use planning were recognized early in the life of the Commission, and have been an area of emphasis on a continuing basis. Much of the effort has centered on the need to promote and develop an ongoing coordinated state and federal transportation planning process, one cognizant of the intricate relationships between land use and transportation. Through these activities and the mutual cooperation of the state and federal agencies, a viable State/Federal Transportation Organization formed in 1977. State membership includes the Commissioners of Transportation and Public Works, a Department of Natural Resources designee, and the State Co-Chairman of the Federal-State Land Use Planning Commission. Federal membership includes the Departments of Transportation, Interior, and Agriculture, the Federal Energy Administration, and the Federal Co-Chairman of the Commission.

²¹This project was done under contract to the University of Alaska, Dr. Larry S. Underwood. 1977.

In addition to the Policy Organization, a Technical Committee has been formed to facilitate ongoing coordination of state and agency planning activities and to enhance communication between the various state and federal transportation planning efforts.

Wildlife management is probably the most critical factor requiring resolution in federal/state relationships in Alaska. The Federal-State Land Use Planning Commission played an active role in promoting and encouraging both the philosophical and applied aspects of cooperation regarding wildlife and wildlife habitat management.

In 1977 the Commission sponsored an interagency workshop for local federal and state agency leaders to discuss cooperative fish and wildlife policies. Individuals representing the National Park Service, U.S. Fish and Wildlife Service, Alaska Department of Fish and Game, Bureau of Land Management, U.S. Forest Service, and the Alaska State Board of Game cited their involvements in interagency agreements and the possibilities and limitations associated with such activities.

In early 1977, the co-chairmen and staff met and worked with members of Senator Mike Gravel of Alaska's staff, Forest Service personnel, and interested user groups to refine a proposed Southeast study requested by Senator Gravel. An appropriation of 1.2 million dollars to conclude and coordinate this study was requested but was not granted.

Subsequently, an intensive planning effort in revising the Tongass National Forest Land Use Management Plan has been undertaken by the Forest Service, and much of the assessment work contained in that effort meets the need of the proposed Commission study.

Federal Land Policy--Under Section 17(d)(2) of the Alaska Native Claims Settlement Act, up to 80 million acres were to be withdrawn by the Secretary of the Interior for consideration by Congress as additions to, or new units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems. The Commission was charged with the study and formulation of recommendations for the use and management of these as well as other federal lands. Based upon narrative reports describing the resources of the d-2 areas, maps, and overlays prepared by the Commission's Resource Planning Team, recommendations of its Advisory Committee, its members' knowledge of Alaska, and on-site inspection of major areas, the Commission began its deliberations for use recommendations on the d-2 lands. The Commission conducted 37 hearing in urban and remote rural locations in Alaska and in San Francisco, Washington, D.C., Denver, and Seattle. Verbatim transcripts as well as videotapes of the hearings were used in its deliberations. The result was specific recommendations of primary values and allowable uses for each of 26 groupings of teh d-2 withdrawal areas, as well as general management recommendations on transportation, subsistence, and mining. These recommendations, entitled "Land Planning and Policy in Alaska," were transmitted to the Secretary of the Interior in August, 1973, and a reprint of Commission recommendations was made available by the Senate Committee on Interior and Insular Affairs as a Senate document²².

²²LAND PLANNING AND POLICY IN ALASKA: RECOMMENDATIONS CONCERNING NATIONAL INTEREST LANDS. Prepared by the Joint Federal-State Land Use Planning Commission.

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In June, 1976, Senators Jackson and Fannin, Chairman and Ranking Minority Leader, respectively, of the Committee on Interior and Insular Affairs, requested the Commission, acting under Section 17(a)(2)(7) of the Settlement Act, to provide Congress "one relatively succinct document," on the "d-2" lands. The D-2 Book Lands of National Interest in Alaska Volume I, including the Commission's analysis centered around four major questions, was completed in 1977. The questions were:

- (1) Are wildlife, wilderness, scenic, and other natural values of national importance adequately protected?
- (2) Are national energy objectives and needs for important minerals provided for?
- (3) Are obstacles to meeting potential needs for food, wood, fiber, and other resources in Alaska minimized?
- (4) Are potential conflicts with other landowners minimized?

The report containing the analysis and Commission recommendations was submitted to Congress in May 1977 and has been a base for knowledge of Alaska for many legislators and citizens.

A second "d-2" publication and companion volume to the first compares the Commission's "d-2" recommendations and the recommendations of four major "d-2" bills already submitted to the 94th Congress. The D-2 Book Lands of National Interest in Alaska: A Comparative Analysis, was presented to Congress in January 1978. This volume contains a comparative evaluation of the d-2 legislation presently considered by the Congress and the various natural resources, extent and location.

In 1977-78 the Commission co-chairmen and staff have been requested by numerous federal, state, and private organizations to provide general and detailed information on the various d-2 proposals and issues. Although the Commission has, under the Congressional mandate of the Settlement Act, developed its own detailed recommendations, it also has maintained an evolving objective outlook on this complex subject, and as such has been relied upon to provide comparative analyses of the various proposals and d-2 issues.

Besides the testimony provided by the Commission co-chairmen to the various subcommittees of the U.S. House of Representatives, the staff of the Commission has provided assistance to the various committees in evaluating Alaska's natural systems and resources. This function has been criticized by some environmentalist groups; however, the Commission mandate requires this function, and the staff's ability and integrity is reported to have been of great assistance to both conservation and development oriented legislators.

State Land Policy--Section 17 of the Native Claims Settlement Act and Section 41.40 of the Alaska Statutes give the Commission responsibilities regarding state lands that are equal to those pertaining to federal lands. Specific legislative language directs the Commission to make recommendations concerning areas of state lands to be made available for disposal and the uses of those lands remaining in state ownership. The Commission is also to provide advice and recommendations regarding the selections of state lands and to assist in the development and review of land use plans for state selections. In addition, the Commission has duties to

include the state in cooperative planning mechanisms, to hold hearings and otherwise facilitate relations with the public regarding land use planning for both state and federal lands, to make recommendations to the state regarding programs and budgets affecting state lands, and to propose changes in state laws as are determined necessary in the light of the Commission's findings and recommendations. On the basis of these statutory mandates, the Commission has completed "Statutory Guidelines for Retention and Disposal of State Lands" (Appendix 4).

The second of the special studies specifically requested by the State Senate is an analysis of the past policy and practices of the Alaska Division of Parks and recommended future policy which could govern the legislative program establishing state parks in the future.

The Commission is actively involved in completing this study. An extensive program of research, data gathering and interviews with park personnel has been conducted, and letters have been sent to all of the major municipalities within the state asking for their views on the Division of Parks, particularly in relation to local responsibilities for providing recreation opportunities.

Alaska Native Claims Settlement Act/Implementation--Broadly told, all Commission activity has been an implementation of the Act, since the Act sets out Commission structure and obligations. Recommendations such as those affecting lands withdrawn under Section 17(d)(2) or easements identified under Section 17(b) have already been set out.

Other recommendations included evaluation of areas withdrawn under Section 11(a) (3) for Native deficiency selections and assistance to regional Native corporations in resolving deficiency withdrawal problems. One of the most thorny of these involved the deficiency selection areas set aside for Cook Inlet Natives, Inc.--the resolution of which required state, federal, and regional corporation cooperation to an extraordinary degree, and the approval of the Congress as well as the Alaska Legislature of a land exchange among the three major landowners. At the request of the State Legislature, the Commission reviewed the proposed exchange and recommended its approval.

The Commission also has assisted Native village and regional corporations in making land selections within the time constraints of the Act, and has recommended to the Secretary the immediate conveyance of the "core" township or townships--and to expedite transfer of lands to native corporations. The Co-Chairmen and staff have been involved in the development of the Department of Interior policy to expedite conveyances under ANSCA announced in early 1978.

Another of the Commission's statutory mandates under Section 17(a) (7) (D) of the Act is review of existing federal withdrawals and to make recommendations to the President of the United States concerning desirable additions or other modifications. In 1973, the Kenai National Moose Range was identified by the Commission as a first study area. After careful staff analysis, the Commission determined that the Moose Range objectives and resources would be impaired by any modification of boundaries. Pending completion of a study of Glacier Bay National Monument, the Commission recently recommended that mining continue to be allowed in a portion of the Monument.

Throughout its existence the Commission has commented on regulations to implement the Act, recommended procedures for small withdrawal review and easement identification, provided informational handbooks on village compliance responsibilities under Section 14(e), and, in numberless instances, assisted in the implementation of the Act. Appendix 6 details many more Commission activities implementing the Act, particularly in the first years of Commission operation.

In March of 1973, the Commission recommended to the Secretary of the Interior that he appoint an administrative appeals board with headquarters in Alaska to adjudicate administrative appeals involving federal lands located in Alaska. The Commission premised its recommendation on: the stringent time limits set in the Settlement Act; the great number of public land entries in Alaska accompanied by a consequent number of appeals, the backlog which occurs in the processing of such appeals; the need of government land managers and the Native corporations to know land status with certainty as they made classification and selection decisions; the unique considerations of land use in arctic and subarctic regions, especially with respect to customary modes of use and occupancy by Native people; and the remoteness of Alaska from the site of normal adjudication in Washington, D.C. All these factors created a unique situation which warranted the establishment of a special appellate body. In response to recommendations received from the Commission, several Native corporations, and other parties, the Alaska Native Claims Appeal Board was formed January 4, 1974.

Public Dialogue--An important aspect of the Commission's conflict resolution and policy planning process has been to provide a public forum for discussion and debate of vital issues.

In September, 1973, in conjunction with the Alaska Humanities Forum and the Alaska Department of Community and Regional Affairs, the Commission sponsored a conference concerning a number of procedural and substantive matters arising out of the Native land selection process and various aspects of local and regional land use planning, including the role of local governments in enforcing land use controls.

In December, 1973, the Commission conducted a one-week seminar composed of miners, environmentalists, economists, land use planners, government land managers, lawyers, and others to focus on policies that should govern prospecting and mining activity, the deficiencies which exist in the present federal mining laws and possible solutions thereto. The conference sought means of implementing Commission recommendations of a lease permit system for mining on national interest lands where mining was an allowable use.

Two conferences were sponsored to consider the taking of fish and game and other renewable resources to meet subsistence needs. One was held in Anchorage in February, 1973, the other in Juneau in February, 1974. The goal of the participants, persons with experience, knowledge and/or responsibilities in the area, was to seek a classification system to determine priorities in the allocation of these resources among subsistence, commercial and sports users.

Another major conference was "Land and Government: Options in State Legislation" held in January, 1975. Over 400 concerned citizens came

together to discuss emerging issues involving the role of government in land use planning and control. The conference identified a spectrum of land planning needs as perceived by Alaskans, and alternative responses to those needs. In a series of workshops, each participant had a chance to become directly involved in debating and evaluating state land use issues.

The most recent workshop seminar sponsored by the Commission was in March, 1978 to obtain an objective view of the issues discussed in this report--methods for cooperative land classification and management. Five nationally known people were invited to attend and assist the staff and Commission members in this task: Dr. Alan Steiss, the coordinator of the workshop, is a planner, expert in management systems, and a professor at Virginia Polytechnic Institute; Dr. James Hackert, geologist, professor at VPI, and an expert in applied sciences and information systems; David Callies, one of the leading experts in the U.S. on the application of land use controls; Dr. Anthony Catanese from the University of Wisconsin who, among his other accomplishments, is an expert in coastal zone management; and Professor Irving Hand, who is a nationally known planner. As seen in the material presented in part II of this report, this team of experts, the staff, members of the Commission, and invited participants discussed all aspects and methods for cooperation among agencies and governments:

- (1) existing laws, (2) creation of a new agency, (3) concepts for establishment of a commission, and (4) the appointment of a land czar.

In making the evaluations and recommendations, the consultants stayed away from the details of pending d-2 legislation and dealt ⁱⁿ ~~on~~ objective, conceptual terms, as reflected in their reports presented in chapter III of this report.

Has the Commission lived up to the expectations of the Congress as envisioned when the ANCSA was passed? Should a commission be established to insure coordination among all agencies--federal, state, local--in dealing with Alaska's land resources and management?

How can we insure that federal, state and local officials and private sector representatives will have the opportunity to work together to develop regional plans?

It is important that the Commission--which has done a good job in providing data base and knowledge to assist in the congressional debate on the d-2 lands issue, has assisted in the native land selections process, has prepared excellent reports on many issues ranging from resources, transportation, economics to simple planning guides for use in rural training programs--now evaluate the full scope of its performance and participates in the debate dealing with the development of mechanisms for cooperation among agencies, streamlining of regulations, development of a system that will insure that all lands will be protected, not only the ones selected for special treatment. It also should assist in developing the mechanism that will insure that when changes of classification and ownership may occur in the future, either in the federal or state domain, a process of review is established between all interested parties--the federal government, the state, local governments and the people at large.

"This moment will be a critical one in Alaska's future history. Development must not be confused with exploitation at this time. The financial welfare of the future state and the well-being of its present and unborn citizens depend upon the wise administration and oversight of these developmental activities. Two very real dangers are present. The first, and most obvious, danger is that of exploitation under the

thin guise of development. The taking of Alaska's mineral resources without leaving some reasonable return for the support of Alaska governmental services and the use of all the people in Alaska will mean a betrayal in the administration of the people's wealth. The second danger is that outside interests, determined to stifle any development in Alaska which might compete with their activities elsewhere, will attempt to acquire great areas of Alaska's public lands in order NOT to develop them until such time as, in the omnipotence and the pursuance of their own interests, they see fit. If large areas of Alaska's patrimony are turned over to such corporations, the people of Alaska may be even more the losers than if the lands had been exploited."²³

²³U.S. Senator E. L. Bartlett, ALASKA CONSTITUTIONAL CONVENTION PROCEEDINGS, 1965. "Governmental Functions and Responsibilities--Natural Resources."

PART III

SUMMARY OF WORKSHOP ON INNOVATIVE CONCEPTS OF
COOPERATIVE LAND CLASSIFICATION & MANAGEMENT

This country is in the midst of a revolution in the way we regulate the use of our land. It is a peaceful revolution, conducted entirely within the law. It is a quiet revolution, and its supporters include both conservatives and liberals. It is a disorganized revolution, with no central cadre of leaders, but it is a revolution nonetheless.

The ancien regime being overthrown is the feudal system under which the entire pattern of land development has been controlled by thousands of individual local governments, each seeking to maximize its tax base and minimize its social problems, and caring less what happens to all the others.

The tools of the revolution are new laws taking a wide variety of forms but each sharing a common theme---the need to provide some degree of state or regional participation in the major decisions that affect the use of our increasingly limited supply of land. (THE QUIET REVOLUTION IN LAND USE CONTROL, 1971, Fred Bosselman and David Callies)

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BRIEFING/SUMMARY

The following summary is drawn from the transcripts of the briefings conducted by Dr. Alan Walter Steiss, Panel Chairman, in meetings with Senator Mike Gravel and Governor Jay Hammond. As such, it provides a concise overview of the intensive two-day Workshop on Innovative Concepts of Cooperative Classification and Management of the (d)(2) Lands of Alaska, held on March 29-30 in Anchorage.

We appreciate this opportunity to summarize the discussion that has taken place during the past two days in this Workshop on the major issues regarding the (d)(2) land classification/management process. The role of the Panel has been primarily to provide a catalyst to this discussion. The Workshop was organized according to the so-called "Brookings model" in order to develop an interactive dialogue among the participants and the Panel--to raise some questions, share ideas and perceptions, and lay a foundation for the further development of appropriate strategies for cooperative planning and management in Alaska. Although we have received excellent briefings by the members and staff of the Federal-State Land Use Planning Commission, obviously, the Panel members could not become "instant experts" in the short time that we have been exposed to the land use planning/management issues in Alaska. However, we have tried to step back and examine these issues from perhaps a somewhat different perspective--that of the collective experience of the Panel members in land use planning and management.

Issue Perceptions

We began the Workshop by asking the participants to identify some of the key issues they perceived with regard to the whole question of cooperative planning and management (these Issue Perceptions are summarized in the following section of this report). While we have been unable to answer all

of the questions that were raised, I think that one of the key issues brought out by this discussion was: "How do we ensure that there is public awareness/participation in the process, leading to acceptance of the strategies for implementation that may be adopted?" The success of any planning/management approach, in large measure, is going to be dependent upon the willingness of people to participate freely in the strategies that are suggested. Therefore, we examined this basic question in some detail, and while I am not sure we have resolved all of the issues associated with it, a number of key considerations have been raised.

We discussed the issue of scale. We continually have to remind ourselves of this aspect. It is easy to lose sight of the magnitude of the areas under consideration and to begin to think of these problems in terms of the "last park site" in a highly urbanized environment of the lower forty-eight states. Failure to place these vast land resources into proper perspective may lead to precipitous actions that, in the long run, may not be in the best interest of the State of Alaska or the nation as a whole.

These considerations led to an examination of the issue of timing, and the question as to whether or not there is, in fact, a need for an immediate "one-shot" solution. Is the traditional classification system the only--the best--mechanism to ensure an orderly achievement of objectives? Or, is there a more dynamic approach--an evolving classification/management process--that can better serve national and state interests? We used these questions as a baseline in discussing the various approaches to cooperative planning and management. We agreed that there needed to be a balanced approach in both the formulation and application of whatever format might be adopted.

The National Interest

While the discussion centered on the role of the State and the role of the Federal government in these processes, we do not perceive the question of cooperative management as a Federal-State issue. Rather, the focus should be on cooperative management in the national interest (or different perceptions thereof), in which the Federal government, State government, local governments, Native Corporations, and private interests all must play a vital role. Thus, we came up with a working, shorthand definition of cooperative management as: A mutual commitment to shared objectives, as well as a mutual recognition of divergent objectives which must be reconciled through some process of adjustment. On the one hand, national interest in this context may be defined in terms of wilderness areas, conservation values, endangered species, and so forth; while on the other hand, the national interest must involve raw materials to meet the energy needs of our country, the need for strategic minerals, the need for orderly economic development, and the needs of all citizens of the State of Alaska. Cooperative planning and management must provide a vehicle that is able to examine both the shared and the divergent objectives.

The national interest in these lands must be examined in terms of the total fabric--not as a patchwork quilt, but as a harmonious pattern. Accomplishment of the objectives of these "lands of national interest" must be sought in concert with the objectives associated with adjoining areas that may not be designated as Federal Lands, but may be held by the State or by a Native Corporation. Together, they form the vertical and horizontal threads--the warp and woof--of the total fabric. Various issues raised in proposed legislation before Congress and the State legislature--such as the conveyance

of lands and subsequent disposal; wilderness review and area designation; wildlife management and subsistence; mineral accessibility and transportation access; and the need for overall coordination--are all interwoven and must be treated in a comprehensive fashion if the resulting pattern is to be truly a meaningful one, i.e., in the national interest.

One of the questions brought up early in our discussion was: "What is the difference between cooperative management and coordinated management?" We see cooperative management as an interactive process; whereas coordinated management is more of a sequential process. Much of what may be labelled "cooperative management", in fact, is really just a form of coordinated management, wherein agency A has an opportunity to comment on something, passes it along to agency B for comments, which, in turn, passes it on to agency C, and so forth. Truly cooperative management is an opportunity for all parties to come together on an interactive basis and to dialogue over the particular issues rather than this sequential approach.

Functions and Responsibilities

In trying to get a further handle on what is cooperative management, we looked at the range of functions and responsibilities that might be assumed under this rubric: (1) a coordinative review function to provide a broader forum for the discussion of critical issues; (2) the responsibility of planning as an advisory function; (3) the responsibility of classification--the development of studies and analyses relating to the designation of land uses; and (4) the actual management process itself, where the agency, committee, commission, or whatever form the lead organization might take would have the authority to direct and to assign responsibility for the actual management of these lands. It was suggested that all of these

functions could be considered part of the broader approach to cooperative management. That, in fact, planning is a function of cooperative management, as is use classification. But, it may be necessary and appropriate to go beyond planning and classification, or even planning, classification, and management. This discussion (summarized in the presentation by Dr. James E. Hackett) represents different ways of "slicing" this issue of cooperative management.

In the discussion of responsibilities, a question was raised about the process of adjudication: "Is it necessary (desirable) to have formal procedures for administrative review, judicial review, or some form of binding arbitration built into the cooperative management process?" A number of different mechanisms to ensure adequate avenues of appeal in cases of disputed authority were discussed, including the courts (which, it was suggested, provide a very poor forum for resolving such issues); equal partnership arrangements (as applied by various river basin commissions); peer agency review procedures; "consistency" requirements such as incorporated in the provisions of the National Coastal Zone Management Act; and binding arbitration by a higher authority. It was suggested that, while avenues exist for dealing with State-private and State-local disputes, an adequate State-Federal mechanism does not exist. It was agreed that these concerns should be brought back into the discussion as the final mechanisms that, in fact, might be appropriate for cooperative management were examined.

We discussed four different approaches to cooperative management according to levels of involvement/responsibility (detailed in the presentation by Dr. Anthony J. Catanese which follows). The first is an existing agency approach, which essentially builds on the capacity of current agencies, with

reliance on interagency and intergovernmental agreements. This is a "least change" approach from the current situation. There are a number of things, however, that can be done within the context of this approach which would lead towards a forum for greater cooperation and coordination.

The second level would be a new agency approach. There was a general consensus that there should be a very strong State role manifested in this or any other of these approaches. There needs to be some vehicle for coordinating on-going activities, such as the Coast Zone Management program --for bringing together existing regulations and other mechanisms that are available--in a very strong State presence through a comprehensive state-wide planning process.

The new agency approach also is represented in some of the legislation pending before Congress, in terms of various Federal field directors committees or interagency councils. Such a Federal level approach represents another possibility, albeit a contrasting approach to that of a strong State presence.

The third alternative examined was that of a commission approach. It was suggested that several different types of commissions might be organized, ranging from an appointed commission, similar in structure to that of the current Federal-State Land Use Planning Commission, to a commission with membership expanded to include elected officials (Federal and State), to a citizens commission or committee. The latter approach would provide the strong citizen input called for in the earlier discussion regarding public awareness/involvement. We came to the conclusion that a commission also could be strongly oriented to the State--a State land use commission or a

State-regional (State-borough) commission. And again, a commission approach might adopt many of the features of the previous approaches.

At the other end of the continuum is the land use commissioner or land czar approach. Under this approach, a single individual, appointed by the President and the Governor, would have final authority with regard to land use decisions that might be forthcoming from the various cooperating agencies.

Organizational and Legal Considerations

The pros and cons of these various approaches were examined from an organizational/implementation point of view and in terms of the legal mechanisms available to carry out assigned responsibilities (see the presentations by Irving Hand and David Callies for further details). It was suggested that the Existing Agencies approach would result in some measure of fragmentation--of responsibilities being mutually exclusive--with limited opportunity to bring parties of interest together to deal with specific problems. The New Agency and Commission approaches give fuller recognition to the "bundle of responsibilities" defined under cooperative planning and management and the need for a more clearly articulated organizational focus in the exercise of these responsibilities. The Land Use Commissioner approach would seem to be a viable option only after other options have been fully evaluated and found wanting in terms of the objectives envisioned under the national interest.

Various legal/implementation approaches were discussed in the Workshop, ranging from the "networking" of existing regulations under the exercise of the police power to the establishment of a special permit system applicable

to areas of particular concern. Such a permit system could be applied to areas in which land use conflicts were most critical, as opposed to the larger areas in which there already is agreement as to the "best" use. In this discussion, emphasis was placed on a positive attitude toward police power, as contrasted to the more negative context within which the exercise of the police power, like zoning, has been molded in the past.

A Multi-Level Approach

Finally, an effort was made to bring these thoughts together by looking at a tripartite or multi-level approach to cooperative management. On the one hand, there seems to be good reason to have some kind of committee composed of representatives of the land management, energy, and transportation agencies at the Federal and State levels. The primary responsibility of such a committee would be to coordinate management activities as they relate to the existing and newly designated Federal areas. This level of interaction, however, would be primarily between people of like responsibilities --the U. S. Forest Service representatives would talk to their counterparts at the State level; energy people at the Federal level would deal with energy people at the State level; and so forth. This would be an operating agency committee as opposed to, in the broader sense, a policy setting committee.

At the same time, the Panel felt that there was a need to strengthen the State presence through a comprehensive statewide planning effort, to include activities already underway in the Coastal Zone Management program. The CZM program will play a more important role in this statewide planning effort, particularly in areas of use conflict. Such a State approach should give very strong recognition of and ability to bring into play State-regional

(State-borough) planning committees. Through these committees, citizen input could be very strongly derived.

The Panel saw the need for some kind of Joint Commission which would have responsibility for coordination--particularly between the other two levels of effort--and for task force formation where it is appropriate, i.e., where there is a particular issue. This Joint Commission should have the responsibility and the authority to bring together Federal and State agencies to address particular issues on a task force basis. It also was felt by the Workshop participants that this Joint Commission should have an administrative review process built in to its responsibilities, such that it could provide a quasi-judicial avenue for various aggrieved parties to bring problems and issues forward for review and arbitration. While the Joint Commission might not serve as the final arbitrator, it should be in a position to make the decision that arbitration is necessary, and the responsibility for initiating that arbitration.

Putting all of these elements together (~~Diagram 1~~), the Workshop concluded there was need for a Federal-State agency approach, a State comprehensive planning approach, and between these two, an Interim Joint Commission.

Levels of Application

The Workshop also looked at a matrix ^{Figure 1} (Diagram 2) within which it might be possible to find the appropriate levels of application. We looked at the questions of: (1) What is needed in terms of coordination/cooperation for the newly designated Federal areas? (2) What is needed in areas where there is an intermixing of Federal, State, Native Corporation, and private interests? and (3) What kind of process is needed as related to critical

FIGURE 7
MATRIX ON COMPARATIVE NEEDS FOR MANAGEMENT

	Review	Plan	Classification	Management
Whole State	X	X		
New Designation	X	X	X	
Intermixed	X	X	X	X
Critical Areas	X	X	X	X

areas of particular concern? These critical areas might be defined in terms of environmental issues, or they might be delimited in terms of economic development issues. The more traditional definition of critical areas, of course, is related to fragile environmental resources. Very often, however, in the context of what we perceive as important for Alaska, critical areas may also be defined in terms of their development potential--development as it would relate to the welfare of the State as a whole.

The functions of Review, Plan, Classification, and Management--the four functions that the Workshop identified as part of the cooperative management process--form the other dimension of the matrix. While the Workshop participants did not reach total agreement, it was suggested that a Review process is needed across all levels. Planning is needed for newly designated, intermixed, and critical areas. Classification processes are particularly important in areas of intermixed ownership/control and in critical areas of particular concern. As the issues become more solidified, however, these functions may be forced outward, as represented by the second diagonal row of X's in diagram 2, representing other areas of application in which this agency or process--that is, cooperative management--might be appropriately applied.

In a very brief summary, that is what we have been talking about for the past two days. On behalf of my colleagues on the Panel, I would like to express our appreciation for this occasion to participate in the discussion of the challenges and opportunities that face the State of Alaska. The development of appropriate responses to these land planning and management issues will form a significant model for future national land use planning and management strategies.

ISSUE PERCEPTIONS

To provide an overall frame of reference to guide the Panel discussion during the Workshop sessions, the participants were asked to identify their perceptions of the key issues confronting the State of Alaska in the planning and management of (d)(2) lands. While these "issue perceptions" ranged from the broad question: "Who owns the land?" to specific issues relating to the exercise of the police powers such as zoning, four basic themes seemed evident.

Who Owns the Land?

While the issue of legal ownership in terms of who holds title to the land was not in question, having been resolved in the broader sense in the Alaska Native Claims Settlement Act, "ownership" in the sense of who has the power and authority to decide on the use of these lands seemed to be an issue of some concern. The interface between public and private lands (both Native Corporation lands and other lands held in fee simple title through earlier homesteading and settlement) and the relationship among land held by or controlled by the Federal, State, and local governments continue to be an area of concern. Such concerns, of course, lay at the foundation of the need for cooperative planning/management mechanisms and the resulting processes for determining the best use of these lands. Related questions/issues include:

- (1) Whose values are the most important in making such determinations?
- (2) Who has the power to make these determinations, and will a redistribution of power be necessary?
- (3) What processes for conflict resolution must be instituted to ensure that all parties have an opportunity to air their positions, and who decides how such conflicts are to be resolved?

- (4) How can an orderly interface between privately owned lands and Federal and State lands be ensured?
- (5) How can a recognition of "people needs" play a more central role in these deliberations?

Public Awareness/Involvement

The concern for a greater reflection of "people needs" in the decision regarding the classification and use of these land resources is closely tied to the second major issue area--the need for greater public awareness and involvement in the decision-making process. The point was made on several occasions throughout the Workshop discussion that legislative bodies in their deliberations and decision making must be presumed to reflect "the will of the people." Therefore, if the classification and management of these resources are to be responsive to "people needs," there is need for strengthened mechanisms for public awareness of the issues and participation in these deliberations. Such public involvement, it was observed, is a key to public acceptance of the implementation strategies necessary to ensure the orderly conservation and/or development/use of these resources. Therefore, the panel was asked to address the question, "how can we achieve greater public awareness/involvement?"

Relationship to Existing Systems of Planning and Management

The planning, classification, and management of (d)(2) lands must reflect the on-going activities of other planning and management systems at the Federal, State, and local levels. Existing mandates of various public programs/agencies, many of which are in different stages of development and implementation, must be coordinated. It is also necessary to recognize (and deal with) the fact that cooperating agencies may have conflicting goals. As one participant put it: "How can coordinated/cooperative management

occur with the bureaucratic inertia of BLM, the Fish and Wildlife Service, and so forth?" Related to this issue was the concern that the methods of carrying out the designated uses are in concert with the overall objectives and intent. Are the method and mechanisms for implementation adequate, or are new mechanisms required?

Continuity and Change

This discussion leads to the final major issue set--how is it possible to maintain continuity in light of a changing political environment? Whatever mechanisms are developed for the planning, classification, and management of these vast land resources, they must have built-in flexibility to meet changing conditions and to reflect changing needs, as well as changing political philosophies. This need for flexibility underlines the importance of a process for review and monitoring the decisions made in light of changing conditions. It also suggests the need for a concerted capacity building effort to bring local, regional, and state programs and processes into full partnership with the existing Federal programs.

These, then, were some of the issue perceptions of the Workshop participants raised at the onset of the discussion and to which the Panel attempted to direct its presentations.

NEED AND FUNCTIONS OF COOPERATIVE CLASSIFICATION AND MANAGEMENT

by Dr. James E. Reckett

There is little to be gained by attempting to develop here a long listing of specific needs for cooperative classification and management. The large body of reports, publications, and other documentary materials provided to us by the Federal-State Commission contains numerous references to these needs. We must assume that this information is well-known by those present at this workshop. Our concern is to consider some new perceptions and approaches to formal cooperative relationships that perhaps have not been adequately explored to date.

When the land transfers initiated by the Native Claims Settlement Act and previously by Alaska Statehood Act are completed, a complex pattern of land ownership will have been developed. However, with the expiration of the Joint Federal-State Land Use Planning Commission, there will be no continuing formal entity in which Federal and State governments are participants. Nevertheless, there will be a considerable period beyond the time of the transfer of lands under section 17(d)(2) of the Alaska Native Claims Settlement Act and the scheduled demise of the Joint Commission before the land ownership and management regimes are finally established. No provisions currently exist for guidance and coordination during this critical period.

Additionally, there are a number of issues and management concerns that will persist both in relation to the final disposition of lands along with their management regimes, and to the long-term development and use of all of the lands of Alaska. The continued interaction of Federal and State throughout

time requires that coordination and cooperation be established and maintained as a "way-of-life" in Alaska.

Institutionalizing Cooperative Management

There are those who are resolved that the bill, to meet the requirements of section 17(d)(2) of the Alaska Native Claims Settlement Act, will contain provisions to define and promote a continuing program of cooperative management between State, Federal and private ownership interests within the State. While the need for continued cooperative activity between Federal and State is recognized in most of the existing (d)(2) legislative proposals, the structure and functional authority of the cooperative body differs markedly among the proposals.

In the design of a cooperative management mechanism, it should be recognized that there are legitimate differences in the policies, management objectives, and management authority at different levels or spheres of government. Each has its own constituency that it must serve. Federal agencies respond to national goals; state agencies to state goals; and local entities to local goals. If each entity of government is left free to operate solely within its area of operational authority, the responsibility to serve its constituency will remain the dominant concern in land or resource management decisions--even when such decisions infringe upon or are in conflict with the legitimate needs or interests of another level. To work toward balance and mutual responsiveness in continued programs of use management, there is the need to establish a formal structure to ensure intergovernmental communication, interaction, and program coordination.

Functional Roles in Cooperative Management

The functional role of cooperative management has not been explicitly defined, and consequently, diverse conceptions of what it entails exist among both its advocates and opponents. There are three distinctive levels of functions that can be used to characterize the operational role or roles of a cooperative entity. These are:

- (1) The Planning Function: to conduct studies and analyses and to serve primarily in an advisory capacity to legislative and management units regarding policy and programs. Such is the functional level of the existing Joint Federal-State Commission.
- (2) The Classification Function: the cooperative body is given responsibility to conduct studies and analyses for land use distribution, to make assignment of land in various use categories, and to identify management programs to be instituted and agency responsibilities for management.
- (3) The Management Function: at this level, the cooperative body assumes the responsibility for study and analysis, the classification and assignment of land, and the authority to direct or assign management functions.

Whatever the level of cooperative activity or the organizational structure employed, it is implicit in the process that an appropriate body of knowledge and information must exist if the decision process is to be rational and balanced. If a diversity of operational activities among various spheres of government are to be coordinated, there is the need to establish and maintain a common and interchangeable data base--one that is constantly updated as new information develops and as new areas of information are brought into existing programs and processes.

Need for a Systemic Process

The constitution of a formal structure for cooperative management, along with the definition of its levels of responsibility to attain specified objectives

in use management, leads eventually to the development of a rational, systematic process for cooperative land use management. The institutionalization of an operational process serves to minimize the unwanted impacts of change--in the views and perspectives within the cooperative structure, as well as within the Federal, State, or local governmental leadership. It establishes a more objective analytical base for management decisions.

A systematic process for cooperative management should establish procedures and mechanisms to be applied in the inventory, analysis, and evaluation of all operational components, including specifically:

- (1) Definition and clarification of the specified goals and objectives of all participatory and associated interest groups within local, state, and national spheres.
- (2) Methods and procedures for the identification and resolution of conflict.
- (3) Rational and equitable procedures for comprehensive review, assessment, and evaluation of existing and proposed management programs and policies.
- (4) Mechanisms and procedures for periodic monitoring and review of on-going management programs and assessment of their effectiveness in terms of stated objectives.

In summary, the need for cooperation and coordination among the governmental entities and land ownerships involved in the use and management of Alaska lands is clear. What remains to be defined is the specific organizational structure of a new cooperative body and the functional level of its operations.

Discussion

The following comments and questions were raised in the Workshop discussion that followed Dr. Hackett's presentation:

- (1) Whatever the level of cooperation, it will be necessary to have a satisfactory body of knowledge if the decision-making process is to be rational; there is need for a common/shared data base.
- (2) Is there need for a separate, distinct body at this time, or are the existing mechanisms adequate?
- (3) Given a body with specific assignment to classify and identify management authority, how binding are the recommendations of this body on the actual agencies to carry out these responsibilities?
- (4) Should there be a time limit on the life of such an agency; are Sunset Laws applicable here?
- (5) There is need for joint machinery because of the three kinds of land owners (and an absence of traditional mechanisms).
- (6) What is the role of the Alaska Coastal Policy Council in these procedures?
- (7) Federal-State relations represent a marble cake and not a layer cake.

ORGANIZATIONAL ALTERNATIVES

by Dr. Anthony James Catanese

The actual organization for land use planning is not as important as the objectives to be attained. The objectives can set the organizational structure for a given context. It must be kept in mind that the organization is created solely to attain the objectives and can vary as objectives change.

This implies that there are alternative organizations that may be able to implement such objectives. These alternatives should be defined and evaluated before settling upon a choice. Henceforth, we shall endeavor to define the most plausible organizations to implement land use objectives for Alaska.

A Continuum of Alternatives

There is a continuum of alternatives, starting with a steady state or "no change" and ranging all the way to a czar-like decision-maker as a highly centralized organization.

Steady State
(Existing)

Highly Centralized
(Land Czar)

In between the ends of the continuum are a number of alternatives. For convenience, we choose to define four basic alternatives within this continuum.

I	II	III	IV
Existing Agencies	New Agency	Commission	Land Czar

As can be seen, each of the four alternatives from I to IV represents an increasing level of change and centralization. Furthermore, there are any number of permutations between these alternatives, and they are not mutually exclusive. Hence, it is possible to have more than one or a permutation of more than one in effect at the same time. It should also be pointed out that we do not choose to stratify the alternatives by level of government since that might imply an erroneous impression of independence.

It is possible to outline some basic characteristics for each alternative organization. In addition, we can discuss briefly some techniques that may accompany each alternative for purposes of cooperation, coordination and conflict-resolution among different levels of government and interested parties.

I. Existing Agencies

The existing agencies of State government, working closely with Federal agencies and coordinating local (boroughs and municipalities) governments, might be able to implement land use and development planning for Alaska. This would require increased cooperation and coordination, largely on a voluntary basis. In addition, a set of techniques should be employed to ensure that coordination and cooperation occurs and conflicts are resolved without resort to the judicial branch of governments.

Some techniques that this alternative would permit include the following:

- (1) Interagency Agreements. Formal written agreements describing how agencies and parties to decisions shall interact.
- (2) Legislation, Rules, and Regulations. Through congressional or State legislative action, the specifics of decision-making are prescribed. Furthermore, agencies are given the responsibility and authority to write rules and regulations to implement legislative objectives.
- (3) Executive Orders. Presidents, governors, and local chief executives may employ broad powers for implementation through the use of executive leadership formalized in orders.
- (4) Good Offices. Chief executives, as well as congressional leaders and State legislators, can use their persuasion, respect, and authority through their "good offices" to implement objectives.
- (5) Authority/Responsibility Mandate. The mandate of agencies can be reviewed to determine if adequate authority exists to meet their responsibilities. If not, executive or legislative changes or reorganization may be necessary.
- (6) Referenda. While somewhat unpredictable, Alaska has an initiative and referendum system that can be used to implement the public will.
- (7) Network and Consistency. Using the coastal zone program as a model, it may be possible to form a network of existing legislation, rules, and regulations to implement objectives. Using this network, it may be possible to insure consistent actions amongst governments.

II. New Agency

A new state-level agency of some appropriate organizational stature could be created. It would have a proper mandate as well as authority and responsibility for land use decisions. Since this means a more unified state decision-making role, this could require a strong sense of direction for functions presently found in the Departments of Environmental Conservation, Natural Resources, Community and Regional Affairs, and Policy Development and Planning. Such an overtaking of State interests in land use would probably require some reshuffling of agency components in order to create a more

streamlined structure and minimize diversity of responsibility. It could also enable stronger planning at the State level.

A federal counterpart might be possible. While unlikely that a major new agency would be formed just for Alaska, it may be possible to create a coordinating Federal group for land decisions in Alaska. This would be analogous to the Field Committee or Field Director Committee for Alaska. Obviously such a group would interact closely with state agencies or a new state agency.

Techniques for coordination, cooperation, and conflict-resolution would include all of those included under alternative I, as well as a few new techniques, as follows:

- (1) Arbiter. A conflict-resolver who has the authority to mediate, arbitrate, or negotiate problems.
- (2) Administrative Courts. An administrative review system which enables an appeal of land decisions prior to and sometimes as a surrogate for the judicial system.
- (3) Plan or Policy Framework. A statewide plan or policy direction which provides a framework for land use decisions; some administrative mechanism also would be necessary to determine if individual decisions are in conformance.

III. Commission

It is possible to form a commission with a fair degree of independence to deal with land use objectives. There are several proposals for such a commission.

- (1) Cooperative Planning Commission. A number of options have been prepared by FSLUPC, Senator Gravel, and Senator Stevens, for example, which include a joint federal-state membership and mandate. Other aspects not already evaluated for such a commission would include membership for Congressional delegates and State legislators, as well as interest groups. In addition, powers beyond advisement might include kinds of land classification and perhaps development controls.

There may be some variations to the cooperative planning model. For example, Commissioners might be citizen members not necessarily representing a governmental level but rather different interest groups. There may be regional and/or local representatives on such a commission. There may even be the possibility of a commission that is essentially a staff operation.

- (2) Other than Cooperative. An alternative to a cooperative commission would be a state commission with a new statewide mandate. For example, a State Land Use Commission could be created by the legislature. That commission could include interest groups, regional and local representatives, elected leaders, and citizens. Its authority could include land classifications, zoning, development controls, and review. It would also advise the President and Governor on needed programs for Alaska.

Techniques for coordination, cooperation, and conflict-resolution could include all those shown under I and II. It should be apparent, however, that the Commission approach involves much more participation than other alternatives.

IV. Land Czar

A highly centralized organization may be possible for Alaska, with a virtual land czar or some reasonable facsimile. This person and organization would have broad powers for land classification, development controls, such as zoning, and management authority. So broad could such powers be that it is fair to question whether the person serving in this capacity should be appointed or elected.

Assuming that such a person would be appointed based upon a set of minimum qualifications, not unlike judges, it could be a state, federal, or joint arrangement. If a state level office, this person could be a State Land Use Commissioner or Officer, along with a staff of his or her choosing. In this case, the Governor with consent of the Senate could make the appointment. Similarly, the President with the consent of the U. S. Senate could appoint a Federal Land Use Commissioner or Director for Alaska. A joint arrangement

ORGANIZATION/PLANNING FORMATS

by Professor Irving Hand

The Matrix developed at the conclusion of yesterday's discussion (Diagram 2) --in the processes and issues it seeks to relate--provides a useful device both in identifying the circumstances that may apply in this interrelationship as well as exploring the relative ability of each of the four alternative approaches to deal with the objectives of Cooperative Planning and Management in Alaska.

I. Existing Agencies

As a first step in exploring this alternative, it may be appropriate to select a number of existing agencies whose responsibilities and activities relate to the central concerns of cooperative planning and management and to develop a profile of these key agencies to portray, as factually as possible: (a) what does exist, (b) how it works, and (c) what the interactions are, and more particularly, what they are not. In this examination, insights may be gained concerning the major landowners and the mutual interests they might have, both of a general nature as well as in specific instances. It also might provide the hard documentation being sought in terms of the broad public interest that cooperative management is expected to satisfy and, in turn, be supported by. These understandings should be developed as fully as possible if, indeed, these parties of interest are to be brought into some system of cooperative planning and management.

As a result of this analysis, one might find that existing laws provide for structures and arrangements which may not have been fully developed which might be usefully brought into being. It might be discovered that responsibilities have been provided for, but have not been fully exercised, which, if they were, might be instrumental in both classifying and differentiating

might be a Federal-State Land Use Officer for Alaska appointed jointly by the President and Governor.

With a broad array of powers, the land czar would settle most conflicts and be responsible for all coordinations and cooperation. The offices of the President and Governor would add considerable strength to those powers. Beyond that, appeals or conflicts would have to be resolved in the courts.

THE FUNCTION-APPLICATION MATRIX

The matrix presented previously in the Briefing/Summary as Diagram 2 was developed by Dr. Steiss in an effort to summarize the first day's discussion in the Workshop. The horizontal axis of this matrix represents the various functional responsibilities outlined by Dr. Hackett in his presentation: Review, Planning, Classification, and Management. The vertical axis represents the levels of application possible under the concept of cooperative management: (1) the whole state, (2) newly designated federal areas, (3) areas of intermixed ownership/control, and (4) critical areas of particular concern. It was suggested that the discussion on the second day of the Workshop begin with an examination of the possible "fit" of the various organizational approaches with this matrix.

the relative importance of what needs to be done. In short, such analysis would assist in clarifying existing authorities.

This examination of key selected agencies also would provide an informed basis on which to proceed in the exploration of other options in the four alternative approaches outlined by Dr. Catanese, and in judging their relative efficacy. Such an analysis would provide an important benchmark against which to evaluate these other alternatives. Thus, before major efforts are launched to "invent" new solutions, it would seem desirable to see if existing organizations/responsibilities could be "orchestrated" to achieve the objectives of cooperative planning and management.

II. Create a New Agency

There is a tendency, when confronted with a new set of problems (or with a set of problems for which "old" solutions do not seem appropriate), to create a new agency to deal with these problems. It is as if the "freshness" of this new agency will somehow guarantee new solutions. It may be possible, however, to reconstitute an existing agency, in terms of its activities--their range and substance--and its support, and by so doing, achieve the same end results without having to experience the "growing pains" of a totally new agency. It may be necessary, in selecting this latter approach, to undertake a rather complete reworking of this agency's authorizing legislation to ensure that its mandate conforms with the new expectations and objectives.

Of particular concern in this option is an understanding of the role of the State in such an endeavor (within the context of the four approaches, it reflects a special focus in this instance). An understanding of the State's role should address: what it is, what it can be, what you would like it to be, and what you think might be achievable!

In this connection, I would make particular reference to the State Planning Office in the Office of the Governor. From a quick reading, it would appear that the responsibilities provided this agency by statute are very broad and include the responsibility for comprehensive statewide land use planning. Indeed, the actions taken to date in conjunction with the Coastal Zone Management program, and the mounting interest and activities associated with this program would suggest that this agency might appropriately serve as the State's focus for cooperative planning and management processes. Quite clearly, the Office of State Planning could deal both with the geography of the responsibilities we have been discussing and the particular land use issues that are involved, as well as the elements in the process, as identified across the top of the Matrix. I would note that the management element, relative to the discussion of this Workshop, would have ingredients similar to those which would face a successor agency to the Federal-State Land Use Planning Commission.

In addition, the considerations involved in bringing together a selection of people to deal with the interests that have been touched upon in our discussions to date might very well apply in trying to develop the appropriate interfaces as the State Planning Office deals with a land use planning responsibility. As has been suggested, a statewide planning effort could serve as the vehicle for greater citizen input through the related development of State-regional (State-borough) planning commissions.

I would urge that this option be examined very closely as Statehood in Alaska matures and as State government increasingly exercises powers and duties set out in law. Such legislative directives, I would imagine, were deemed highly important in the establishment of the State and its expected functioning and should receive a thorough review in the context

Whether this Commission is a State Commission, a State-Regional Commission, or a Federal-State Commission, as noted in the Four Alternative Approaches, its membership composition should reflect citizen leadership (as wide ranging of public interests and views as may be strategically useful), the elected official (Federal, State and local), the key agencies involved (Federal and State), the regional concern and the private sector.

IV. The Land Czar

The fourth option perhaps becomes a viable consideration only after the chronology of other options has been evaluated and found to be wanting. There consideration, and ensuing judgment, might very well suggest how you might move with this fourth alternative, should that become real. The cautions offered concerning this alternative, must be fully examined, however.

Assessment of Alternatives

In suggesting that one go through this kind of review of the four approaches in relation to the elements of the Matrix, in my mind's eye, I have attempted to do this within the period of our brief visit and acquaintance.

I have the impression that the Existing Agency approach would portray some measure of fragmentation, of responsibilities being both overlapping and mutually exclusive, with only limited (although perhaps growing) opportunities to bring parties of interest together in selected ways to deal with specific situations.

Whether one goes with options II or III, the review and coordination, planning and classification functions, as indicated in the Matrix, appear to be a

of the objectives of cooperative planning and management.

III. Commission

The third alternative represents a variant of the "new agency" approach and grows out of an evaluation of the relative adequacy of State government to deal with these responsibilities at this time. It does not and should not foreclose the opportunity for that judgment to change if indeed State government is to be recognized as a full partner, if not the central focus of the institutional arrangement we call the Federal system of government. In short, if State government were to be used to its fullest potential, many of the "interim" organizational arrangements that have been proposed over the past several decades to achieve the objectives of comprehensive land use planning may prove to be unnecessary.

If this option becomes a reality, as certainly appears to be the case in light of the several bills currently receiving attention, I would emphasize as a highly important consideration that the parties of interest be brought to the table as members of this Commission in a fuller fashion that appears to have been suggested in the pending legislation. That is to say, the membership of such a Commission should be expanded to include representation from all interested parties. Such participation, however sensitive, can be instrumental in gaining conflict identification and resolution in an atmosphere amenable to more positive shaping and direction of public policy. This regularized opportunity to communicate, learn, and hopefully, begin to understand the range of views that may apply in a given situation can help to gain the cooperative planning and management so earnestly desired for Alaska.

bundle of responsibilities for a planning agency, in relation to which a management agency (and there could and are likely to be several) would exercise its responsibilities.

Pending the adequacy of the planning process (the information and analyses upon which it is based), the rigorousness of the classification system (the level of relative broadness or detail presented), as well as the accountability for its application (consistency between plan and classification and implementing management), some consideration might well be given to the requirement of a management plan, its review and comment by the planning agency, and the monitoring and periodic assessment of its application. Pertinent to this consideration could be the planning agency's review of the budget of the management agency and the activities it represents. Such a review should be a useful support to the management agency in its efforts, as well as a means for furthering the effective implementation of the planning and classification system.

As you might conclude, these latter observations accept the role of a planning agency as advisory, but suggest that such a role as a reflection of its quality can be persuasive and significant. No small measure of this recognition may be assisted by a council or commission with the membership composition I have indicated. In addition, administrative requirements that already have been suggested--such as requiring a statement of justification for the public record when a management plan is not consistent with a recommended plan or classification system--may be appropriately employed.

Within the limits of our discussion, it would seem appropriate to suggest that the planning agency could deal with the array of considerations indicated by the Matrix designations: whole state, newly designated areas, inter-mixed, and critical areas. These would appear to be a bundle of concerns that relate to the responsibilities of a planning agency should seek to fulfill in achieving the cooperative planning and management system emerging from these deliberations.

Discussion

The following comments and questions were among those raised in the Workshop discussion that followed Professor Hand's presentation:

- (1) In response to a question as to how such an organization/planning system might interact with the Federal system, it was suggested that this interaction could be accomplished through representatives of the Secretaries and members of the Congressional delegation on the Commission.
- (2) It was suggested that such an approach (the inclusion of elected officials on a Commission) would arm the Commission with "the ammunition for political negotiations".
- (3) The second and third approaches, it was observed, would provide for a greater integration of the various planning functions into a more comprehensive approach. State, local, and private interests could be coordinated through a State Plan which could then be interfaced with the Federal system.
- (4) The Commission might be relatively larged, staffed by the State Planning Office, with a designated "life expectancy".
- (5) Provision should be made in any organization/planning format for "evolution during the transition period".
- (6) The Federal Field Committee "model" governed much of the perceptions in the early days of the Federal-State Land Use Planning Commission. This "model" seems to be reflected in the Administration amendments to H.R. 39.
- (7) It was suggested that while such a "model" may relate well to the existing and newly designated Federal areas, the other concerns are primarily those of the State and local governments which cannot be adequately reflected in such an approach.

(8) There was general consensus as to the need for an Interium Joint Commission to carry out the responsibilities of coordination and arbitration. Such a Commission should:

- (a) have the responsibility to call together subcommittees and "task forces" to deal with specific issues;
- (b) have the authority to call for binding arbitration (although it may not be the arbitrator); and
- (c) have the power of administrative review.

IMPLEMENTATION TECHNIQUES

by David L. Callies

The management of land use in Alaska by means of "lower 48" techniques is complicated by the pattern and scope of land tenure which is unique among the 50 states. Several hundred million acres are held in fee by Federal and state governmental agencies. Even after the withdrawal of Native claim lands (under the Alaska Native Claims Settlement Act,¹ or ANCSA) which will remove approximately 40 million acres from the public domain, State and Federal agencies will own between them approximately 150 million acres each.

The effect of this massive public ownership both facilitates and complicates the public management of land. Facilitates because the ownership of land carries with it vastly more potential for management and control than the more traditional control over the use of land by a governmental entity through police power regulation. Complicates because generally a hierarchically superior level of government is not subject to the regulation and control (at least while exercising governmental--as opposed to proprietary--functions) of an inferior one. Thus it is difficult to devise a system, which, for example, subjects federally owned lands to the jurisdiction of State and local agencies without the express permission of the Federal government. (Parenthetically, the same is generally true with respect to local government control over State government land). Hence, the need for some cooperative effort if the management of land in Alaska is to be coordinated around resource conservation and development patterns, rather than around chance public ownership patterns.

Implicit in the above is the basic assumption that there are but three applicable categories of techniques for government to manage land resources. These are:

1. The exercise of the police power. Certain rules and regulations may be promulgated by general purpose local governments and their respective agencies for the health safety and welfare of the population. State and local (through State delegation or home rule) governments have such power with respect to the use of land. The Federal government generally does not. Thus, State and local (boroughs, cities) governments in Alaska need not depend upon their powers and duties as owners in order to regulate land within their respective jurisdictions. Other things being equal, the State has the general power to regulate all land within its jurisdiction, whether or not it owns such land, subject only to the usual limits imposed by constitutional standards of equal protection and due process. However, all things are not equal in Alaska because vast areas are held in fee by a superior governmental authority--the Federal government --which is not subject to the land use regulatory power of the State of Alaska or any of its local government units unless it chooses to submit to that authority.

The land use control techniques which might be used, provided Federal consent is secured, range from fairly rigid classification systems, reminiscent of local zoning, to fairly loose permitting and identification of major development for review.² The following

is a brief review of several such techniques:

- a. Statewide classification of all lands. All land in the State could be divided into zones in accordance with a land classification system. Regulations and restrictions would set out in detail the uses permitted in each zone. Local land use control authority could be preempted or not. Given the size of most boroughs, State-Federal authority would presumably take precedence over inconsistent borough zoning. On the other hand, from a d-2 lands perspective, the classification decisions of smaller units of local government--first and second class cities--would be largely irrelevant and could be exempted from such preemption. Such a system have been adopted by the State of Hawaii.
- b. The "zoning" of selected areas. Certain areas of the State could be selected for special attention in order to protect critical values. Control over both private and public lands within the boundaries of such an area--park-like in nature--could rest with an agency or commission which would again "classify" such lands with restrictions pertaining to each classification.

The Tahoe Regional Planning Agency, a bi-state agency more or less governing the use of land in the Lake Tahoe region in California and Nevada, is roughly analogous, though it tends rather toward the permitting procedures noted below. A better

example is the Adirondack Park Agency in New York which is authorized by state statute to classify and manage both state (approximately 3 million acres) and private (approximately 3 million acres) lands within the 6-million-acre park boundary, and whose classification and regulation supercede those of the many local governments whose jurisdictions are otherwise within those boundaries. The agency's land use authority has been upheld in several New York cases.

- c. The plan as a statutory instrument. City and borough land use controls could be tied to local and regional plans which must be both internally consistent and consistent with a statewide plan. Conceivably, Federal plans and activities could be made (voluntarily) to be consistent as well. This is a system much favored in Europe (Germany, Netherlands, United Kingdom) and increasingly popular in the Pacific Northwest. Oregon, for example, has adopted such a tripartite planning system whereby local land use plans and controls must be consistent with a statewide plan consisting of land use policies, goals, and objectives. The matter of such consistency is being extensively litigated in the Portland region where a local environmental group, 1000 Friends of Oregon, is contesting the amount of developable land contained in the regional (CRAG) plan for consistency with statewide goals.

- d. Developments of Regional Impact (DRI) and Areas of Critical State Concern (ACSC). The State or a commission could identify areas of critical state concern which should be free of any development without a special regional or statewide review and permitting process in order to guarantee that areas of importance to the State or Native Corporations are not lost, damaged, etc. Certain large or unusually intrusive development (DRI's) could also be reviewed on the ground that wherever located, they so affect the region or state that their siting should be subject to regional or statewide review for permission to locate anywhere.

The American Law Institute has drafted a code which, in its Article 7, sets out the structure and rationale behind such a system (see: A Model Land Development Code, A.L.I., 1977). This section of the model code has been adopted almost intact by the State of Florida in its Environmental Land and Water Management Act of 1973. ACSC's, such as the Big Cypress Swamp, have been identified. The Florida list of DRI's includes marinas, highway interchanges, power plants, new communities, residential developments over a given magnitude, shopping centers, and university campuses.

- e. Infrastructure controls. State and local control over the building and permitting of infrastructure improvements (roads, sewer and water lines, etc.) can do much to channel development in directions which are desirable. The State, Native corporations, and the Federal government can, by using the funds at

their disposal, encourage and entice development in certain areas and through certain corridors by providing such improvements "free" or at modest cost, thereby making development there more attractive. This approach can correspondingly (within limits) refuse both to permit or provide such improvements in areas determined desirable to be development free.

Both municipalities (Ramapo, N.Y. and Petaluma Calif.) and regions (Twin Cities area in Minnesota) have devised such systems which have withstood legal challenges.³

A final note: There is a small but not insignificant body of law which not only supports but mandates a limited degree of Federal control over nonfederal land adjacent to Federal holdings.⁴ There is even some support for Federal interference with local government land use regulations in the event that State and Local governments are remiss in protecting national health. Thus, one Federal court has held that federally proposed Clean Air Act transportation plan requirements do not "conflict with the proper functions of the system of Federalism embodied in our constitution."⁵

2. Eminent Domain and Public Ownership. The usual context for a discussion of land use management via eminent domain and public ownership revolves around issues of land acquisition (by condemnation, bargain, or sale), public use and public purpose. However, in Alaska the issue is quite the reverse. The extent to which withdrawal from or changes in public ownership may affect the use of land in

Alaska. While the vast majority of property rights in the State are presently in Federal lands, this will soon change as both the private withdrawals from Federal ownership by the Native corporations and the public withdrawals by the State are "patented." The pattern of such permanent withdrawals from the Federal land bank will, in all likelihood, help determine the practical use of Federal, State, and private land in Alaska. Selected withdrawals can effectively surround or fragment key Federally owned parcels and so help determine what may be feasible thereon--unless the Federal government should choose to "condemn" them back, which it could do only if: (a) it had the funds; and (b) it can articulate a public purpose for the acquisitions. Both the Native corporations and the State could theoretically withdraw lands for such a purpose.

3. Grant Conditions. The Federal government is conspicuously notorious for exerting control over the use of land--which it otherwise lacks--which it does not own by means of conditions attached to grants for such as planning, urban renewal, highway construction, and waste water treatment facility construction.⁶ While recently, the U.S. Supreme Court has cut back the untrammelled power to attach conditions unrelated to the general purpose of the grant,⁷ nonetheless, this category of techniques has the potential for affecting the pattern of land use in Alaska. Presumably, most States and the Federal government can and will attach significant conditions to whatever rights in land--leasehold, easements, licenses, or whatever--they convey to the private sector for development purposes. The Native

Corporations, of course, can do the same. The fact that the "grant" in these instances consists of rights in land rather than money should have little significance. Moreover, the plethora of Federal grant programs involving lands could, and probably will, contain the usual run of conditions regarding the environment, design, etc. Finally, it may be worth investigating whether either the Native or the State withdrawals must be altogether unconditional. Certain Federal lands may be impressed with notions of public trust that could well restrict the development potential thereof, regardless of the level of governmental ownership.

The above suggests the need for some form of cooperative management of Alaskan lands which by and large employs a mix of all three categories of techniques. The police power techniques especially could be generally inapplicable to any governmentally owned lands by a lower level of government without the superior level's express authority.

The Commission as a Mechanism for Coordination. It is conceivable that a Federal-State land use commission is the best way to coordinate such diverse land use management and control techniques, given the patterns of land tenure in Alaska, as noted above. As mentioned elsewhere in this report, such a Commission should have a measure of land use management authority.

Such a commission also could provide a potential developer with a "single stop" in obtaining the plethora of permits and permissions usually required in many "lower 48" jurisdictions to undertake even the most modest of projects. While a good measure of regulations and management is probably warranted

in Alaska, the choking off of development is not, given national energy and mineral needs, and State employment and development goals. Fragmenting the process of obtaining permits to undertake such development is neither useful nor desirable, and the trend toward "one-stop" permitting is increasingly discernable even in such notoriously environmentally conscious states as California and Hawaii.⁸

Notes

¹ PL 92-203

² See, for example: Bosselman and Callies, The Quiet Revolution in Land Use Controls (Washington, D.C. Council on Environmental Quality, Government Printing Office, 1972); Healy, Land Use and the States (Baltimore: Johns Hopkins Press, 1976).

³ See: Golden v. Town of Ramapo, 334 N.Y.S. 2d 138, 285 N.E. 2d 181 (1972); Construct. Indus. Assoc. v. Petaluma, 375 F. Supp. 574 (N.D. Calif., 1974), Rev'd, 522 F. 2d 867 (6th Cir., 1975).

⁴ See: Sierra Club v. Department of the Interior, F. Supp., N.D. Calif., 1975, which specifically required the Secretary of the Interior to protect a national park from potential damage caused by the private use of adjacent land.

⁵ Commonwealth of Pennsylvania v. Environmental Protection Agency, 500 F. 2d 246 (1974), at 262. Three other Circuit Courts, however, disagree: Maryland v. Environmental Protection Agency, F.2d (6th Cir, 1975) Brown v. Environmental Protection Agency, 521 F. 2d 827 (9th Cir., 1975), and District of Columbia v. Train, 521 F. 2d 071 (D.C. Cir., 1975).

⁶ See: Magman, Urban Planning and Land Development Control Law (1975 Supplement), Ch. 20.

⁷ National League of Cities v. Usury (1977)

⁸ See: Bosselman, Feurer, and Siemin, The Permit Explosion, Washington, DC.: Urban Land Institute, 1977).

ORGANIZATION/PLANNING FORMATS

by Professor Irving Heed

The Matrix developed at the conclusion of yesterday's discussion (Diagram 2) --in the processes and issues it seeks to relate--provides a useful device both in identifying the circumstances that may apply in this interrelationship as well as exploring the relative ability of each of the four alternative approaches to deal with the objectives of Cooperative Planning and Management in Alaska.

1. Existing Agencies

As a first step in exploring this alternative, it may be appropriate to select a number of existing agencies whose responsibilities and activities relate to the central concerns of cooperative planning and management and to develop a profile of these key agencies to portray, as factually as possible: (a) what does exist, (b) how it works, and (c) what the interactions are, and more particularly, what they are not. In this examination, insights may be gained concerning the major landowners and the mutual interests they might have, both of a general nature as well as in specific instances. It also might provide the hard documentation being sought in terms of the broad public interest that cooperative management is expected to satisfy and, in turn, be supported by. These understandings should be developed as fully as possible if, indeed, these parties of interest are to be brought into some system of cooperative planning and management.

As a result of this analysis, one might find that existing laws provide for structures and arrangements which may not have been fully developed which might be usefully brought into being. It might be discovered that responsibilities have been provided for, but have not been fully exercised, which,

if they were, might be instrumental in both classifying and differentiating the relative importance of what needs to be done. In short, such analysis would assist in clarifying existing authorities.

This examination of key selected agencies also would provide an informed basis on which to proceed in the exploration of other options in the four alternative approaches outlined by Dr. Catanese, and in judging their relative efficacy. Such an analysis would provide an important benchmark against which to evaluate these other alternatives. Thus, before major efforts are launched to "invent" new solutions, it would seem desirable to see if existing organizations/responsibilities could be "orchestrated" to achieve the objectives of cooperative planning and management.

II. Create a New Agency

There is a tendency, when confronted with a new set of problems (or with a set of problems for which "old" solutions do not seem appropriate), to create a new agency to deal with these problems. It is as if the "freshness" of this new agency will somehow guarantee new solutions. It may be possible, however, to reconstitute an existing agency, in terms of its activities-- their range and substance--and its support, and by so doing, achieve the same end results without having to experience the "growing pains" of a totally new agency. It may be necessary, in selecting this latter approach, to undertake a rather complete reworking of this agency's authorizing legislation to ensure that its mandate conforms with the new expectations and objectives.

Of particular concern in this option is an understanding of the role of the State in such an endeavor (within the context of the four approaches, it

reflects a special focus in this instance). An understanding of the State's role should address: what it is, what it can be, what you would like it to be, and what you think might be achievable!

In this connection, I would make particular reference to the State Planning Office in the Office of the Governor. From a quick reading, it would appear that the responsibilities provided this agency by statute are very broad and include the responsibility for comprehensive statewide land use planning. Indeed, the actions taken to date in conjunction with the Coastal Zone Management program, and the mounting interest and activities associated with this program would suggest that this agency might appropriately serve as the State's focus for cooperative planning and management processes. Quite clearly, the Office of State Planning could deal both with the geography of the responsibilities we have been discussing and the particular land use issues that are involved, as well as the elements in the process, as identified across the top of the Matrix. I would note that the management element, relative to the discussion of this Workshop, would have ingredients similar to those which would face a successor agency to the Federal-State Land Use Planning Commission.

In addition, the considerations involved in bringing together a selection of people to deal with the interests that have been touched upon in our discussions to date might very well apply in trying to develop the appropriate interfaces as the State Planning Office deals with a land use planning responsibility. As has been suggested, a statewide planning effort could serve as the vehicle for greater citizen input through the related development of State-regional (State-borough) planning commissions.

I would urge that this option be examined very closely as Statehood in Alaska matures and as State government increasingly exercises powers and duties set out in law. Such legislative directives, I would imagine, were deemed highly important in the establishment of the State and its expected functioning and should receive a thorough review in the context of the objectives of cooperative planning and management.

III. Commission

The third alternative represents a variant of the "new agency" approach and grows out of an evaluation of the relative adequacy of State government to deal with these responsibilities at this time. It does not and should not foreclose the opportunity for that judgment to change if indeed State government is to be recognized as a full partner, if not the central focus of the institutional arrangement we call the Federal system of government. In short, if State government were to be used to its fullest potential, many of the "interim" organizational arrangements that have been proposed over the past several decades to achieve the objectives of comprehensive land use planning may prove to be unnecessary.

If this option becomes a reality, as certainly appears to be the case in light of the several bills currently receiving attention, I would emphasize as a highly important consideration that the parties of interest be brought to the table as members of this Commission in a fuller fashion that appears to have been suggested in the pending legislation. That is to say, the membership of such a Commission should be expanded to include representation from all interested parties. Such participation, however sensitive, can be instrumental in gaining conflict identification and resolution in an atmosphere amenable to more positive shaping and direction of public policy.

This regularized opportunity to communicate, learn, and hopefully, begin to understand the range of views that may apply in a given situation can help to gain the cooperative planning and management so earnestly desired for Alaska.

Whether this Commission is a State Commission, a State-Regional Commission, or a Federal-State Commission, as noted in the Four Alternative Approaches, its membership composition should reflect citizen leadership (as wide ranging of public interests and views as may be strategically useful), the elected official (Federal, State and local), the key agencies involved (Federal and State), the regional concern and the private sector.

IV. The Land Czar

The fourth option perhaps becomes a viable consideration only after the chronology of other options has been evaluated and found to be wanting. This consideration, and ensuing judgment, might very well suggest how you might move with this fourth alternative, should that become real. The cautions offered concerning this alternative, must be fully examined, however.

Assessment of Alternatives

In suggesting that one go through this kind of review of the four approaches in relation to the elements of the Matrix, in my mind's eye, I have attempted to do this within the period of our brief visit and acquaintance.

I have the impression that the Existing Agency approach would portray some measure of fragmentation, of responsibilities being both overlapping and mutually exclusive, with only limited (although perhaps growing) opportunities

to bring parties of interest together in selected ways to deal with specific situations.

Whether one goes with options II or III, the review and coordination, planning, and classification functions, as indicated in the Matrix, appear to be a bundle of responsibilities for a planning agency, in relation to which a management agency (and there could and are likely to be several) would exercise its responsibilities.

Pending the adequacy of the planning process (the information and analyses upon which it is based), the rigorousness of the classification system (the level of relative broadness or detail presented), as well as the accountability for its application (consistency between plan and classification and implementing management), some consideration might well be given to the requirement of a management plan, its review and comment by the planning agency, and the monitoring and periodic assessment of its application.

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The usual context for a discussion of land use management via eminent domain and public ownership revolves around issues of land acquisition (by condemnation, bargain, or sale), public use and public purpose. However, in Alaska the issue is quite the reverse --the extent to which withdrawal from or changes in public ownership may affect the use of land in Alaska. While the vast majority of property rights in the State are presently in Federal lands, this will soon change as both the private withdrawals from Federal ownership by the Native corporations and the public withdrawals by the State are "patented." The pattern of such permanent withdrawals from the Federal land bank will, in all likelihood, help determine the practical use of Federal, State, and private land in Alaska. Selected withdrawals can effectively surround or fragment key Federally owned parcels and so help determine what may be feasible thereon--unless the Federal government should choose to "condemn" them back, which it could do only if: (a) it had the funds; and (b) it can articulate a public purpose for the acquisitions. Both the Native corporations and the State could theoretically withdraw lands for such a purpose.

III. Grant Conditions

The Federal government is conspicuously notorious for exerting control over the use of land--which it otherwise lacks--which it does not own by means of conditions attached to grants for such as planning, urban renewal, highway construction, and waste water treatment facility construction.⁶ While recently, the U. S. Supreme Court has cut back the untrammelled power to attach conditions unrelated to the general purpose of the grant,⁷ nonetheless, this category of techniques has the potential for affecting the pattern of land use in Alaska. Presumably, most States and the Federal government can and will attach significant conditions to whatever rights in land--leasehold, easements, licenses, or whatever--they convey to the private sector for development purposes. The Native Corporations, of course, can do the same. The fact that the "grant" in these instances consists of rights in land rather than money should have little significance. Moreover, the plethora of Federal grant programs involving lands could, and probably will, contain the usual run of conditions regarding the environment, design, etc. Finally, it may be worth investigating whether either the Native or the State withdrawals must be altogether unconditional. Certain Federal lands may be impressed with notions of public trust that could well restrict the development potential thereof, regardless of the level of governmental ownership.

The above suggests the need for some form of cooperative management of Alaskan lands which by and large employs a mix of all three categories of techniques. The police power techniques especially could be generally inapplicable to any governmentally owned lands by a lower level of government without the superior level's express authority.

The Commission as a Mechanism for Coordination

It is conceivable that a Federal-State land use commission is the best way to coordinate such diverse land use management and control techniques, given the patterns of land tenure in Alaska, as noted above. As mentioned elsewhere in this report, such a Commission should have a measure of land use management authority.

Such a commission also could provide a potential developer with a "single stop" in obtaining the plethora of permits and permissions usually required in many "lower 48" jurisdictions to undertake even the most modest of projects. While a good measure of regulations and management is probably warranted in Alaska, the choking off of development is not, given national energy and mineral needs, and State employment and development goals.

Fragmenting the process of obtaining permits to undertake such development is neither useful nor desirable, and the trend toward "one-stop" permitting is increasingly discernable even in such notoriously environmentally conscious states as California and Hawaii.⁸

Notes

¹PL 92-203

²See, for example: Bosselman and Callies, The Quiet Revolution in Land Use Controls, (Washington, D.C. Council on Environmental Quality, Government Printing Office, 1972); Healy, Land Use and the States, (Baltimore: Johns Hopkins Press, 1976).

³See: Golden v. Town of Ramapo, 334 N.Y.S. 2d 138, 285 N.E. 2d 181 (1972); Construct. Indus. Assoc. v Petaluma, 375 F. Supp. 574 (N.D. Calif., 1974), Rev'd, 522 F. 2d 867 (6th Cir., 1975).

⁴See: Sierra Club v. Department of the Interior, F. Supp., R.D. Calif., 1975, which specifically required the Secretary of the Interior to protect a national park from potential damage caused by the private use of adjacent land.

⁵Commonwealth of Pennsylvania v. Environmental Protection Agency, 500 F.2d 246 (1974), at 262. Three other Circuit Courts, however, disagree: Maryland v. Environmental Protection Agency, F.2d (6th Cir., 1975) Brown v. Environmental Protection Agency, 521 F.2d 827 (9th Cir., 1975), and District of Columbia v. Train, 521 F.2d 071 (D.C. Cir., 1975).

⁶See: Hagman, Urban Planning and Land Development Control Law (1975 Supplement), Ch. 20.

⁷National League of Cities v. Usury (1977)

⁸See: Bosselman, Feurer, and Siemin, The Permit Explosion, Washington, D. C.: Urban Land Institute, 1977).

RECOMMENDATIONS

The Workshop Panel developed the following recommendations as a summary of the consensus reached in the two days of presentations and discussion. While these recommendations by no means are fully definitive or encompassing of all the issues discussed, they should provide an agenda for further consideration and deliberation by the Federal-State Land Use Planning Commission and its constituents.

- (1) A tri-level approach to cooperative management should be initiated to fully reflect the range of issues and concerns involved in the planning and management of the vast land resources of Alaska.
 - a. A Joint Commission should be established to serve as the principal coordinative focus for land use planning and management in Alaska.
 - b. A Committee of Operating Agencies, composed of agency representatives from such functional areas as energy, transportation, and land management at the Federal and State levels, should be organized (perhaps using the Federal Field Directors "model") to serve as the technical advisory arm of the Joint Commission.
 - c. State-Borough Regional Planning Committees should be formed to ensure broad citizen input into the deliberations of the Joint Commission. Appropriate representation from these committees should be included on the Joint Commission.
- (2) The Joint Commission should be organizationally independent of the Federal and State government with its own rule-making authority and other keymarks of autonomy, such as separate payrolls, staff offices, and accountability.
- (3) The Joint Commission should be charged with the responsibility of developing a systematic process for cooperative planning and management that would include the four basic functions of Review, Planning, Classification, and Management, as discussed in this Workshop, plus evaluation responsibilities respective to the initiation of proposed management plans and programs of the various operating agencies.
- (4) The Joint Commission should have the authority to develop and, as appropriate, enforce land use control mechanisms, including a permit system, for critical areas of particular concern as defined in the Workshop proceedings.

- (5) The Joint Commission should have the authority to organize task forces and special subcommittees, drawing upon the technical expertise of the committee of operating agencies, to deal with special issues and areas of concern.
- (6) The Joint Commission should be responsible for the monitoring and periodic assessment of the management plan(s) of the operating agencies, including a review of the budgets of these agencies and the activities that such budget allocations represent.
- (7) An advisory committee(s) of interest groups and other methods to ensure public awareness and involvement should be required of the Joint Commission.
- (8) All of the coordination, cooperation, and conflict-resolution techniques discussed in the Workshop proceedings should be evaluated and applied, as necessary, by the Joint Commission.
- (9) A greater State presence should be asserted through planning and policy development both within and outside the activities of the recommended Joint Commission. Of particular importance is the full integration of activities related to the Coastal Zone Management Program into a comprehensive statewide planning process.
- (10) Cooperative management should involve a dynamic, evolving process of classification/management and should not be seen as a "one-shot" solution to the critical land use issues in Alaska. As such, appropriate mechanism for periodic review of the activities of the Joint Commission, possibly including Sunset provisions, should be incorporated into the mandate of the Joint Commission.