

# Our Land: Policy Issues

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Land is important to people. Land is space, land is place and land is the resource base for food and fiber production, minerals, water, forests and the air which we breathe. Land is relevant and has value because of what it does for or to people.

Land use is a policy issue because the land and its resources are limited, but the population and people's demands on land continue to increase. Today, there are 70,665 square miles of land in North Dakota. There are many uses for this land. People would like to expand food production, add new industries and business, develop recreational areas, develop energy resources and improve their environment. However, by the year 2000 there will still be just 70,665 square miles of land in North Dakota. The policy question is how to decide on priority uses of this land.

## Competing Land Uses

Virtually all the things people do involve the use of land; therefore, many people with diverse interests want a voice about present and future land use.

With the world need for food, there is strong interest in saving prime land for agriculture and in effective conservation practices for all farm land. Energy resources are becoming relatively more scarce and more costly, thus there is pressure to develop this state's coal which takes land, water and space. Coal development brings the need for power transmission facilities which may interfere with agricultural activities, particularly irrigation. Business and industry development result in urban expansion with space needed for the industry and for new homes.

People's changing life styles influence land use. Some people prefer to live in rural housing developments, thus competing for farm land. Outdoor recreation is becoming increasingly popular which often requires land that has alternative economic uses. Improving environmental quality may involve restrictions on land use.

## Policy and Private Property

The public has many concerns about land use; however, most of our land is private property. This leads to one of the fundamental issues about land use policy. The major issue is whether market place decisions through the private enterprise system and its price mechanism can satisfy the public's concerns about land. Or, does the land

market need to be modified by various public or governmental interventions?

Public interest in land use policy is increasing because land use determined solely by the price system may conflict with public "rights." Land use decisions based entirely on the economics of the price system may raise issues, such as: (1) third-party effects, (2) shifting economic uses, (3) irreversible land use changes, (4) short-term priorities, and (5) windfall gains and losses.

Land transactions are made between the buyer and seller, but frequently a third party is affected. For example, when a buyer purchases land in a certain location for a factory, a storage area or a shopping center, neighbors may be affected adversely. When a change in land use causes pollution or congestion, the third party may be the local community. Some of our present policies on zoning, pollution control and eminent domain recognize the public or third-party rights.

Another issue is that land shifts to its highest economic use under the market system. Open land shifts to farming or ranching, farmland shifts to residential use, and residential areas shift to business or industry sites. Generally, this allocation of land use may be satisfactory, but under some conditions it may conflict with public interest.

Society may be concerned because some land use changes cannot be reversed, either physically or economically. Farm land changed into a reservoir or a residential or industrial area cannot be easily changed back into agricultural uses. Today's economics may be determining land use patterns for the future.

Short-term results have priority in our economic system which causes people to view land as a commodity to be bought and sold like any other commodity. Short-run decisions on land use in urban areas without planned development may increase public costs for providing services, such as water, sewer and transportation. Over-emphasis on economic return in land use may overlook the quality of life for the people in the community.

Under the economic system, properties may become valuable or lose value just because of the chance of location. The location of an interstate highway, growth of a city or location of a recreational area may increase the value of adjacent

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land. Should the property owner receive all of the gains from accidents of location, or should they be shared with the public who invested in the improvement? If private property loses value by accident of location due to a public decision, should the public compensate the property owner for the loss?

### **Political Issues**

If the price mechanism or the economic system in land use decisions is to be modified to protect the interests of the "third party" and the public, our political system needs to be involved in developing land use policies.

The general issue in land use policy is, "How can private property rights be balanced with public rights in land?" Specifically, a knotty political-legal issue arises out of the Fifth Amendment of the U.S. Constitution which states in part, ". . . nor shall private property be taken for public use without just compensation." The issue is to what extent this limits government regulatory power over private property. The conditions under which land use regulation is or is not a "taking" need clarification.

Concepts of private property rights are indicated by property and constitutional law; however, public rights in private land have never been specified. As private property owners, we assume we have the right to speculate on land investment, the right to develop our property, the right to protect our property, the right to use our property and the right to sell our property. On the other hand, as part of the public, we think we have the public right to conserve land for present and future use, the right to control pollution, the right of eminent domain, the right to tax property owners and the right to regulate use of land for public benefit. Obviously, there may be conflicts of interest between private and public rights.

Most land use decisions are made by individuals as property owners. The public, through the political system, develops policies that may modify or regulate some land use alternatives to protect public rights.

### **Levels of Responsibility**

Public policies are made at the federal, state and local levels. If the public is to have more "say" about use of land, all levels of government may be involved in some way.

There is no specific national land use policy at the federal level; however, land use is affected by policies of such federal agencies as the Forest Service, Department of Agriculture, Environmental Protection Agency, Department of Transporta-

tion, and others. For example, some would say that the interstate highway system has had more effect on land use than any other national policy. The federal government probably has some responsibility for such public concerns as saving prime farm land for food production, energy development and conservation of natural resources. Some current proposed legislation in Congress includes provisions for federal guidelines on land use, guideline procedures for states on identifying prime farm land and developing energy policies, and encouragement to states to develop policies on issues of broader than local concern.

At the state level here in North Dakota, our legislature has given most of the authority for land use policy, planning and regulation to counties, cities and townships. However, land use is influenced by many of our state departments and agencies, such as the Water Commission, Highway Department, Land Department, Outdoor Recreation Agency, Tax Commission, State Planning Division, Public Service Commission, and others. The people probably look to the state for dealing with land use issues that encompass larger areas than local units of government or that deal with natural resources. Also, the state may have responsibility to provide guidelines to local units of government on land use issues.

Our local governments have the major responsibility for implementing land use policies and developing land use plans. Under authority granted by the state, local governments in North Dakota can establish planning commissions, develop comprehensive plans, establish zoning regulations and use other local regulatory measures on land use. Local governments are represented in Regional Development Councils which provide planning assistance to local units and may serve as a vehicle for coordinating local planning efforts. Local people decide whether or not they want to have a local land use policy and a resultant land use plan and also how to implement that plan.

### **Land Use Policy**

Land use policy is a course of action, followed through the political process, toward achieving goals involving the use of land—our basic natural resource. Land use policy involves quality and quantity of land and its resources, private and public rights, all levels of government and a balance in the economy which will help achieve what people want. Policy objectives are to improve society, in the present and the future, through rational use of our natural resources. Land is the focus for continually changing social and economic relationships among people; therefore, there are no firm answers on the best uses of land.