



**conservation
commission**



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ALTERNATIVES TO FEE TITLE LAND ACQUISITION

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CONCLUSIONS

- A. The key to flexible land management is: (1) the availability of a variety of land-use tools at the disposal of administrators, land managers, and planners; and (2) the ability to use these land-use tools which best suit the needs of each landowner and each management plan.
- B. The Legislature should continue the Protected Waters Study into the 1979 fiscal year.
- C. Less-than-fee title techniques cannot, in all situations, serve to replace the need for fee title ownership.
- D. Alternatives to outright fee title ownership that afford protection for natural areas include adequate zoning provisions, the power of condemnation for less-than-fee title means, and payments in lieu of property taxes (tax credits) in conjunction with fee title ownership of public lands, easements, leases, covenants, and land banking.
- E. A combination of less-than-fee and fee title means can often be used to implement a sound management plan for specific projects.
- F. Adequate funding and support staff are essential.
- G. Public awareness, involvement, understanding, and support are essential for sound program development and implementation.
- H. Additional studies should be undertaken to (1) analyze a tax credit program for Iowa; and (2) to develop a natural area inventory.

BACKGROUND

Public Concern

Impacts of Public Land Ownership

The general public is concerned that the various federal and state agencies in Iowa are acquiring land in fee title ownership at rates that would result in additional pressures applied to local tax roles. Although the Iowa Conservation Commission manages many tracts of public land throughout the state, state lands under Commission management account for only 0.6 of 1% of Iowa's total land area.

When land is purchased by a state agency for public use, this land is removed from the tax rolls of that county. This will usually result in some changes in property taxes within the county. In Conservation Commission-held land areas managed primarily for fish and wildlife purposes, the tax base will be lowered to a small degree resulting in slightly higher county property taxes for individual landowners. Conversely, in Conservation Commission land containing water-oriented recreation facilities, the local tax base will be affected in a positive sense through additional residential and commercial property development or increased land values which will substantially increase the property tax revenue for the county. An example would be Rock Creek State Park where residential developments and service facilities have been built near the park resulting in a larger tax base. (In many instances, state-owned lands, particularly the developed areas, tend to improve the local economy by bringing additional dollars into the area for goods and services purchased.)

An area of conflict presently in Iowa concerns fire protection by local fire department districts for state-owned lands. Some counties in northeast Iowa have a larger proportion of their total land area owned by the state. These local fire departments are concerned when the state owns these forestlands and the

fire departments in these counties must provide fire protection services. These fire departments feel that since these public lands are not on the tax rolls and that the fire departments operate on a limited budget, the state should pay for fire protection on the state lands. The State Forester of the Conservation Commission generally favors paying for fire protection services on state lands, but Iowa's statutes do not permit this practice. The Iowa Conservation Commission does help local fire departments by providing surplus federal vehicles such as trucks and jeeps to increase local fire departments' equipment inventories for fighting rural fires. Fire protection to rural land buildings is not significant; however, fire protection to city buildings would be very expensive--Des Moines State Offices, ISU, U of I, etc. Some agencies pay for fire protection annually; an example is Woodward Hospital. There is no uniform system between agencies. Fire departments favor an annual fee on which to develop their budgets.

One exception to paying for local fire department services by the Iowa Conservation Commission is at Big Creek State Park near Polk City. The Polk City Fire Department has lost \$1,500 to \$2,000 in monies for fire protection due to loss of land from property tax rolls. As the Big Creek area becomes more developed with new service facilities and new homes, the property tax valuations will increase and more than compensate for the lost revenue to the Polk City Fire Department. Until that time, the Conservation Commission will pay the Polk City Fire Department for each fire and emergency rescue call that occurs on state lands in the Big Creek area, when called by the Conservation Commission.

Another concern about public land ownership is that quite often the public perceives the management practices of public lands as controversial. Frequently, this is due to the dissimilarity in managing lands for crop production as opposed to game production. This difference is not readily understood or accepted by the agriculturally-oriented public. Limited budgets may also be a factor causing

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inadequate program development, facility construction, management, and manpower to be available to provide the intensive type of management desired and needed for public lands.

A complaint often heard about state public land ownership is that agricultural land is taken out of production. Public lands acquired are usually marginal farmland or the land is kept in a modified production program by leasing to area farmers. Some agricultural land is taken out of production, but this is usually on a small scale. Often, the landowner will only sell his property if the state takes the entire holding of agricultural, forestland, etc. Option is to sell agricultural land back to private owners, when not a priority to the unit, and return land to tax rolls. This has been done for land and buildings; an example is Lake Manawa.

Conservation Groups Concern

Organizations and conservation groups are concerned with the role of state agencies in buying and administering public lands. The Iowa Chapter of the Sierra Club is especially concerned about the status and future of the Upper Iowa River. The Sierra Club is concerned with the lack of progress and action by the Iowa Conservation Commission toward protecting and preserving the character of this river after the Department of the Interior recommended including the Upper Iowa River into the National Wild and Scenic Rivers System.

The Iowa Code in Chapter 108A requires the Iowa Conservation Commission to prepare and maintain a plan for administration of natural river areas. The Sierra Club has charged that this mandate has not been carried out. Since Iowa's Scenic Rivers Act in 1970, the Iowa Conservation Commission has not developed a detailed management plan for the Upper Iowa River or carried out a comprehensive inventory of the state's many scenic rivers due to a lack of funding, manpower, and the low priority assigned by the Conservation Commission to this item due to the demands of a number of other projects within the Commission.

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The Sierra Club is also concerned about excessive land purchases by the Conservation Commission along the Upper Iowa River. Their complaint is that large blocks of land are being bought and not just linear strips along the river. This results in an emphasis on acquisition rather than planning a program for the protection of the river by use of both fee and less than fee acquisition techniques. The Sierra Club is also questioning buying too much agricultural land along the Upper Iowa River. They feel the areas being bought often are being designated primarily for hunting and fishing and do not aid in the objective of protecting the river.

The Governor's Committee on Conservation of Outdoor Resources is also interested and concerned with the Upper Iowa River. They have requested that funds be made available for land acquisition in the Upper Iowa area for establishment of the river as a scenic river, and that it should be a high priority of the Conservation Commission.

Landowner Concern

Landowners, also are very concerned about public land ownership, especially in the case of the Upper Iowa River. The landowners were alarmed that a large area of land (14,000 acres) was once proposed for fee title acquisition and easements by the Department of the Interior's Wild and Scenic Rivers Study. Fee acquisition of lands by the public would also create problems with relocation of families.

Upper Iowa River landowners argue the need to maintain water use rights for their livestock and irrigation. In places, fences are put across the river to control livestock. The fences can be a potential conflict with river users such as canoeists. Alternatives have been suggested. These include river pens for livestock which allow partial river access and also livestock watering tanks to replace the need for river access. Where fences must be maintained across the river, gates in the fences could be built to allow canoeists safe, easy passage down the river.

Landowners are also concerned with the potential increase in public use of the area that would occur with increased development of facilities and public land acquisition. Trespassing and littering are two specific problems that landowners feel they could be faced with.

Legislative Directives

The Iowa Legislature has been involved in evaluating public land ownership and in ways to place limits or controls on lands held in private ownership as reflected by the State Land Preservation Policy Act (Chapter 53). Landowners are concerned with having their lands acquired by the state specifically if the use of condemnation is suggested. One method which would place limits on land use but avoid state fee title acquisition is the use of easements on private lands.

The Sierra Club has applied pressures to initiate an easement acquisition program on the Upper Iowa River. The Iowa Conservation Commission is concerned, however, with the use of easements on the Upper Iowa River without an overall development and management plan. The Iowa Legislature directed the Conservation Commission to conduct an "easement" study. The Commission in recognizing other techniques and methods expanded the subject matter to reflect a "Less-Than-Fee Title" study to look at the various methods and viable alternatives to fee title ownership available to public land agencies.

Without benefit of such a study, the Iowa Legislature in 1977 appropriated \$100,000 to the Iowa Conservation Commission for easement acquisition from willing sellers along the Upper Iowa River. Efforts were made to acquire easements; however, these were not successful and the funds were utilized for fee-title acquisition. The Conservation Commission feel that an easement acquisition program along the Upper Iowa could result in unwise and premature decisions without having a comprehensive plan to guide both fee title and less-than-fee title acquisition for the river area.

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Chapter 111D of the Iowa Code provides for conservation easements. A provision of that chapter is that easements cannot be obtained by eminent domain. Easements must be acquired from willing sellers by purchase, gift, or other voluntary means. The Attorney General's Office has stated that prior to passage of this section of the Code, the Conservation Commission did have the right of eminent domain in obtaining less-than-fee title property rights.

In 1970, the Scenic Rivers System Bill (Chapter 108A) became law. This section states that "the State Conservation Commission may designate as a natural river area a part or parts of any river in this state which possesses outstanding water conservation, scenic, fish, wildlife, historic, or recreational values which should be preserved. The area shall include lands adjacent to the river necessary to preserve, protect, and manage the natural character of the river." It also states that "the commission shall prepare and maintain a plan for the establishment, development, management, use, and administration of natural river areas as a part of the comprehensive state plans for water management and outdoor recreation." This section of the Code states that local governments may zone areas along the natural rivers, and that the commission shall recommend guidelines and standards for local zoning ordinances to protect natural river areas.

Departmental Concerns

The Iowa Conservation Commission is concerned with the Scenic Rivers legislation in terms of its weaknesses and the lack of funding for program development and administration. Additionally, the Scenic Rivers Act does not provide any financial aid, enforcement, or penalty provisions to guarantee compliance by local units of government to adopt zoning provisions to protect natural rivers designated by the Commission. Presently, local units of government may zone designated natural rivers to protect them and may follow the Commission's recommended guidelines and standards for local zoning. Conversely, they may also totally

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disregard these duties and do as they please resulting in an inconsistent and unpredictable natural rivers program.

In addition, the Conservation Commission is concerned with the lack of funding and staff for managing and maintaining areas and programs. The dilemma facing the Commission is a need to increase funding and staff requirements for new programs and plans or reduce existing program levels.

The Commission must have available a variety of tools to use in its land management programs, not only to meet agency needs and management objectives, but also to use the most appropriate tool available to them to meet the objective intended for the area. Land acquisition by fee title is only one technique. The use of eminent domain in combination with all other less-than-fee title techniques is essential. The use of eminent domain is generally not needed, particularly if long-range acquisition plans for areas are developed. The potential use of eminent domain will encourage landowners to become more receptive to other negotiation processes for less-than-fee title techniques.

The Conservation Commission is requesting zoning authority from the legislature in the form of new legislation to protect the integrity of certain water areas important to the state. The proposal calls for local units of government to develop land use controls to protect areas. If local units of government fail to protect the natural character of areas under their jurisdiction, the state would have the authority to implement protective measures.

The Conservation Commission is additionally concerned about the continuation of the open spaces program. This program should continue with funding provided for additional open space area purchases. The State Comprehensive Outdoor Recreation Plan (SCORP) covers many important facets of the Commission plans. Included are general plans for both river and land trails.

Additionally, the Conservation Commission's concerns include questions involving property tax readjustments and the possibility of a payments in lieu

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of taxes program for reimbursement of local taxes in certain instances. An information and education program for landowners and recreationists may be of great benefit to both parties by helping to improve understanding and public relations.

LESS-THAN-FEE TITLE TECHNIQUES

Types of Techniques

Less-than-fee title techniques include covenants, land banking, leases, easements, zoning, and tax credits. Each technique has advantages as well as disadvantages. The planner/manager must be able to use any of the techniques as required.

Covenants

Covenants are agreements which can be legally attached to a property deed. These agreements obligate the property deed holder to do, or refrain from doing, certain practices on the land. Covenants may be easily changed or removed from deeds by the present landowner and therefore should be carefully analyzed before using this option.

Land Banking

Land banking is another potential technique which is a promising concept in land use control. Land banking is a program through which fee or less-than-fee interests in land are purchased or leased on a large scale in advance of public need and then sold back with restrictions which can direct growth and land use. Various purchase-leaseback and purchase-saleback techniques can solve post-acquisition land management problems. After purchase by a "State Resource Bank" or similar entity, covenants or easements can be placed on the deed, restrictions retained by the agency, and the land sold or leased back. This enables restrictions to be placed on the property for maintenance of land use control. This land banking program has been used effectively in Canada to direct land use.

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Leases

Leases are another tool that the Conservation Commission may presently use. Leases are agreements in which land is rented for current value or a fixed amount for a specified period of time. The Commission often leases land for wildlife. Sometimes, conditions are attached to the lease such as having the Commission plant trees on the land. The Commission also leases a few hunting areas for public use during hunting seasons. At the end of the lease period, the owner may either renew the lease or let it expire.

Easements

Easements are acquisitions or donations of limited rights to a tract of land. Conservation or scenic easements usually refer to acquisition of a landowner's right to change or alter the natural character of all or part of his land. The easement is basically an interest or a right in someone's land which is less than the full, or fee title, interest. It is the right for dual use of land for a particular purpose for one party and the landowner for other purposes. The easement idea is an old one dating back to the Romans who used them for their aqueducts. A unique variation of this approach is being initiated in Maryland, with the purchase of development rights from "open space" type of lands. This program is funded through property transfer tax funds.

Zoning

Zoning is a land-use control. Zoning sometimes has bad connotations, but it is generally an accepted and necessary means for regulating growth. It is a means used by governments to regulate private land and building development within their jurisdictions to protect individual property owners and to direct growth according to a planned pattern.

Iowa presently has no statewide zoning provisions to protect its valuable resources. Wisconsin has an all-inclusive shoreland, floodplain zoning legislation which, according to a Wisconsin Department of Natural Resources land appraiser,

probably has done more to preserve and protect its rivers than all the easements that could have been bought. Iowa is presently studying and exploring the possibility of enacting statewide zoning legislation through passage of the State Land Preservation Policy Act in 1977. Also, the Conservation Commission is specifically requesting zoning authority to protect selected water areas.

Currently, zoning provisions rest solely with the local governments of counties and cities. But this is often inadequate. As of November 1976, only 60 counties had county zoning provisions. Only 30 counties and 21 percent of Iowa's cities had floodplain zoning ordinances to protect individuals and their property from flooding and its consequences. Obviously, much of Iowa's local government units are leaving large amounts of land unprotected and open to unwise and unsafe development. In addition, local zoning ordinances may be subject to change because of local pressures. Counties and cities may also suffer from the lack of qualified zoning administration.

A method to strengthen zoning is referral zoning. For a local county to change the zoning status of an area, this action must be referred to a state zoning agency for approval before the zoning change may take place.

Some states have zoning provisions which dictate to counties that certain areas must be zoned (especially along scenic rivers designated in the local state's scenic and natural rivers program). Counties have a specified period of time, such as 18 months, to enact the appropriate zoning ordinances. If local entities do not enact the zoning ordinances, the state zoning agency is required to exercise control and enact zoning provisions for the area. In these states local zoning units are usually urged to pass appropriate zoning measures by their constituents to prevent intervention by the state, and the same purpose of zoning protection is accomplished. (This is similar to the previously proposed Protected Waters Area legislation endorsed by the Conservation Commission.)

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Iowa now has legislation which can be used to establish State Historical Districts. This form of zoning allows for the establishment of historical districts for the preservation of historic buildings and preventing encroachment by new development into these areas.

In 1977 the Iowa Legislature passed the State Land Preservation Policy Act which provided the framework for a state land use policy. Each county has a county land use policy commission which is charged with developing land preservation policy recommendations for the Iowa General Assembly to be submitted by March 1979. The impacts of this legislation on local land use planning and management activities is unknown at this time. The success or failure of this Act in developing an effective land use policy is entirely dependent upon the efforts of the 99 county commissions in explicitly defining land use problems and recommending methods to solve them.

The Protected Waters Area as proposed in the 67th General Assembly would have amended the existing Iowa Scenic Rivers Act. It would have authorized the Conservation Commission to designate certain water and wetland areas as interim protected water areas and to temporarily zone, for a period up to two years, land areas adjacent to the designated interim protected water areas to protect and preserve such areas in the public interest. The temporary zoning authority will allow the Commission time to prepare and submit a plan for continuing protection and management of such water areas to the general assembly which must give final approval for designation. The Legislature did approve a Protected Waters Area study which is to consist of a general statewide plan, active public involvement, and assessments of impacts of designations. The first year of the study will consist primarily of inventories, public involvement and development of designation criteria.

Iowa has recognized the value of open spaces throughout the state. Since 1973 the General Assembly has appropriated five million dollars to acquire land from willing sellers which would include significant river, lake, wetland, prairie,

forest, biologically significant areas, and lands containing significant archaeological, historical, or state preserve values. The willing sellers provision has restricted use of the program in acquiring inholdings or straightening boundary lines in existing state parks and forest lands.

Land use management agencies throughout Iowa and the nation need to become more aware of Critical Areas, the need to inventory them, and their proper management to provide for protection and use. Critical Areas are deemed to be critical from their scarcity, potential hazards, and/or the threat posed by their development. Some of the many examples of critical areas include agricultural land, airports, coastlines, communication facilities, ethnic colonies, flood hazard areas, mining sites, unique natural areas, power plant sites, recreation areas, wetlands, prime sites for economic development and job creation, and water supply sources.

Many states (including Iowa in its Scenic Rivers System Act) have provided legislation to protect some of these Critical Areas. Some of the Critical Areas which are protected by legislation in other states are wetlands, wild and scenic rivers, historical and archaeological sites, floodplains, coastal zone "areas", scientific and natural areas, agricultural areas, forest lands, shorelands, and wildlife habitat areas. Iowa needs to examine the Critical Areas legislation of other states, inventory its own Critical Areas, and pass appropriate legislation to safeguard its Critical Areas. A "natural area inventory" could provide the basis for identifying such "critical areas" beyond those developed through the protected water area program.

State Comprehensive Land Use Planning is important to safeguard valuable assets and provide for a sensible plan of growth and development. Hawaii started statewide land use legislation and has been followed by additional states. The states which have comprehensive land use legislation and their dates of enactment are:
Hawaii (1961, 1975), Vermont (1970), Florida (1972), Nevada (1973), Oregon (1973), North Carolina (1974), Maryland (1974), Colorado (1974), and Wyoming (1975).

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Iowa should study these states' programs as to how effectively they are working and strongly consider its own comprehensive land use planning legislation.

Tax Credits

Another less-than-fee title technique which can be used effectively to protect land is tax credits. Tax credits can provide incentives for landowners to keep their lands in forest lands and open spaces. Tax credits can also encourage landowners to seriously consider donating all or part of the rights to their lands through reduced income tax incentives.

Iowa's Forest Renovation Law allows reduced property tax on forested land. This encourages landowners to keep their lands in forest cover and enables them to withstand rising property taxes and development pressures.

Landowners can also obtain federal income tax credits through the donation of gifts to governmental bodies (federal, state, or local), public supported charities, or private nonprofit operating foundations. These gifts may include the outright donation of fee title to their lands, less-than-fee title (easements), bargain sale of their property at less than full price, or other means.

An additional tax credit method used by some states is Open Space Credit Act provisions. These provisions reduce property taxes for lands involved in this program and maintained as undeveloped open spaces. Presently, Iowa has not utilized this method. For example, under Michigan's Farmland and Open Space Preservation Act, the owner of farmland may enter into a development rights agreement with the State. The owner receives an exemption for the duration from special district taxes and a substantial State income tax credit for keeping his land in open space.

Matrix

To analyze less-than-fee techniques, a matrix has been developed to compare different techniques and how they are affected by their application and use. Many techniques would involve the need for legislative action. To implement these

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techniques they must be acceptable to landowners and public land management in terms of costs and in the degree of control that is afforded. The less-than-fee techniques considered in this matrix are easements, leases, covenants or agreements, zoning, tax credits, and land banking (a State Resource Bank). The matrix shown in Table 1 also includes a comments column that details remarks about the different techniques.

In the area of Iowa's legislative needs there are no provisions for condemnation for less-than-fee uses such as for easements. Also, there is no legislation for statewide zoning provisions, protected water areas, open space credit law provisions, and land banking.

Land management agencies must determine the control needed and the public acceptability of those controls. Will the control protect an area? Will it prevent development changes in the land, or will it allow public use? What is the needed length of time of land use possession for management control? What are the legalities involved? And what is the strength of the control measures needed?

OTHER LAND USE CONTROL METHODS

Payments in Lieu of Property Taxes

One program requiring consideration, evaluation, and possible implementation is a payments in lieu of property taxes on certain lands held in fee title by state agencies. While presently Iowa has no such program (other than certain categories of open space land and the new habitat program), Wisconsin has a successful program.

Public land in Wisconsin is used and enjoyed by many, but it is often thought that local people pay the bill for the using public by paying potentially higher property taxes. A recent Wisconsin DNR study entitled "Impact Upon Local Property Taxes of Acquisition within the St. Croix River State Forest in Burnett and Polk Counties" shows that local property taxes are affected minimally. The study also

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TABLE 1

ANALYSIS OF LESS-THAN-FEE TITLE TECHNIQUES

	LEGISLATIVE NEEDS	ACCEPTABILITY BY LANDOWNER	ACCEPTABILITY BY PUBLIC AGENCIES	IMPLEMENTATION COSTS Funding & Manpower for Acquisition and Management	DEGREE OF CONTROL AFFORDED	COMMENTS
EASEMENTS	Yes Legislation provided but not for condemnation for easements	Moderately Acceptable on Voluntary Basis	Generally Acceptable	Substantial (Depends on program intensity)	Fair-Great Amount (Depends on provisions)	Provisions need to be fully understood by all. Often very costly. (Use in donations)
LEASES	None (legislation provided)	Generally Acceptable	Quite Acceptable	Considerable	Almost Total (Depends on conditions)	
COVENANTS	None (legislation provided)	Generally Acceptable	Quite Acceptable	Some	Fair-Large Amount (Depends on provisions)	Use in land banking & donations. Restriction on deed may be changed easily by next owner.
ZONING	Yes Statewide Zoning, Protected Waters, Statewide Land Use Planning	Poor Acceptability	Moderately Acceptable Needs State- wide Zoning & Local Zoning	Could Involve Large amount of Funding and Manpower Required	None-Considerable (Variable) (Depends on County Zoning Entirely Now)	Need statewide zoning provisions and strong county zoning ordinances. Currently only city and county zoning available and then on a sporadic basis.
TAX CREDITS	Yes Open Space Credit Law	Quite Acceptable	Quite Acceptable	Small Amount	Considerable- Total (Depends on type of area) May be short term control if cost or payback for conversion is not a sufficient incentive	Open Space Law deserves consider- ation and legislative action.
LAND BANKING (State Resource Bank)	Yes No agency or provisions established	Generally Acceptable	Generally Acceptable	Considerable (Depends on program intensity)	Great Amount	Promising idea warrants legis- lative action & implementation.

pointed out that along with enjoying the public lands, every taxpayer helps pay for them through general taxes.

This Wisconsin study analyzed how local property taxes are affected by public land acquisitions by the Wisconsin Department of Natural Resources (DNR) and the National Park Service within the boundaries of the St. Croix River State Forest. By 1975 over 10,000 acres had been acquired, and the projected estimate for 1980 is that over 17,500 acres will have been acquired. The impact of the public acquisitions upon local property taxes was not found to be very significant. The study found that in five of the seven towns within the state forest a lower total tax rate resulted, in one town there was no change, and in one town there was a small increase. Park Service acquisitions, taken alone, would increase taxes very slightly in each of the towns. The DNR's acquisitions, taken alone, would reduce taxes in each of the towns due to the DNR's program for payments in lieu of property taxes. The National Park Service started providing payments in lieu of taxes in 1977.

Wisconsin's public land acquisitions do not change tax rates significantly for a number of reasons. County tax rates do not change much because of the large county tax bases. A lower tax base means increased school aid which helps offset most of the loss in school tax revenue. Payments to towns in-lieu of property taxes help offset losses in town tax revenue and may even provide extra revenue for the town. Finally, any initial change in county, school, or town tax rates is partially offset by changes in state-shared taxes and tax credits.

The state makes up much of the loss of local property taxes through increased school aids, in-lieu payments, shared taxes, and tax credits. The money for these state payments comes from state income taxes, sales taxes, and other general revenue sources. Therefore, every taxpayer in the state pays a small amount of the cost of public lands, as well as having an opportunity to use and enjoy them.

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The Wisconsin property tax system guarantees that local people do not pay the total cost of public land programs through higher property taxes. This means that local government officials do not need to be concerned that public land acquisition will significantly raise local property taxes. Decisions concerning public lands should not be based on an imagined tax effect, since the impact on property taxes has been found to be insignificant.

Consideration should be given to a payments in lieu of property taxes program on public lands owned by the Conservation Commission. These payments would relieve the tax burden from local counties and maintain good local public relations. A thorough study should be made to analyze all the advantages and disadvantages of such a program in Iowa.

If payments in lieu of tax programs were started on public lands in Iowa, would other state agencies, such as the Department of Transportation and the Board of Regents, local county units of government, and other agencies, be required to make payments? Should the Conservation Commission be the only agency involved in a payments-in-lieu of taxes programs? These questions and situations need to be thoroughly analyzed and studied to determine the possibility of a payments in lieu of property taxes program for public lands in Iowa.

Donations

Methods of Donation

Donations or gifts of property or property rights are additional methods in which land use may be controlled. The different types of donations or gifts of property or property rights are outright donation, life estate, living trusts, sale and leaseback, bargain sale, covenants, and scenic easements. The donation means of sale and leaseback, covenants, and easements were discussed earlier.

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Outright donation conveys in fee title all rights of the land to the recipient and is the simplest and most direct land gift. It usually provides the greatest tax benefits to the donor. Restrictions on future use and management may be included in the deed of transfer.

A life estate is another means in which an outright donation of land permits the donor to retain the right to live on the property for the rest of his life (and perhaps for his children during their lifetimes). Testamentary gifts, rewritten wills, and living trusts are methods by which a donor's wishes for a tract of land can be carried out after his death.

A bargain sale is a combination of selling and donating, or selling at less-than-full-market value, which can provide a Federal income tax deduction equal to the difference between full market value and its actual selling price. This may also allow for a reduction in federal capital gains tax.

Donations or gifts of land or partial rights to land, as in the case of easements, have great possibilities and benefits to organizations, governmental units, and the donors. A public information program in Iowa about donations would be very beneficial

Examples of Donation

Various organizations have been recipients of land which has been donated. The State Preserves Board has received the Malchow Mounds area in Des Moines County through donation. The Preserves Board is continually contacting landowners for direct donation of areas which are of historical, archaeological, scenic, or natural significance and value. The Conservation Commission has been a recipient of a 100-acre tract of forested land in Tama County through donation. The landowner received tax benefits for the donation.

The Nature Conservancy is a nonprofit organization which also accepts land donation in fee title or by conservation easements. The Conservancy has very specific goals and purposes which may be generally stated as seeking to protect natural areas

of ecological importance, primarily for the protection of natural diversity. In cases where a proposed fee title donation or easement does not fit in with The Conservancy's programs, The Nature Conservancy through its regional or local field offices may be able to suggest an appropriate conservation organization or governmental agency which might take the donation or easement. The Nature Conservancy is a private landowner and does not need to fence its lands or publicly list them like the Preserves Board properties. By not publicizing areas, they can reduce public impact on an area which may be detrimental.

Wisconsin works very closely with The Nature Conservancy, Izaak Walton League, Sierra Club, and other groups. These groups have been cooperative in land acquisitions and transfers and have assisted the Wisconsin Department of Natural Resources (DNR). Often land is available suddenly and the DNR is not able to negotiate purchase or donation of fee title or less-than-fee title to these lands due to lack of funds or staff. Organizations like The Nature Conservancy may acquire the land through purchase or donation. At a later date the Wisconsin DNR may have sufficient funds and staff to negotiate a purchase or transfer of these lands from The Nature Conservancy. This enables valuable land to be acquired and protected which may otherwise be lost for public acquisition by the state. The Iowa Conservation Commission should develop a good, beneficial working relationship with The Nature Conservancy and other groups that will purchase and hold land for subsequent public acquisition.

Some states and organizations have been very successful in working with the private sector. Minnesota actively solicits donations and distributes tax donation information, and their efforts have resulted in donations from power companies and individuals. In California, some of the lands for state parks have been bought by a private foundation and then donated to the state.

Iowa should also work closely with the private sector in obtaining donations and gifts of land. As a first step, the Iowa Conservation Commission in conjunction with the Heritage Conservation and Recreation Service has published the booklet "Land...The Lasting Legacy of Open Space" outlining the advantages of donation.

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Along with working with many individuals, The Nature Conservancy has been quite active and successful in working with private companies and corporations in obtaining valuable land donations throughout the nation. In 1973 The Nature Conservancy accepted the gift of 50,000 acres in the Great Dismal Swamp of southern Virginia from the Union Camp Corporation, a pulp and paper company. This gift of \$12.6 million was the largest donation ever made by a private corporation to a conservation group. This area was then turned over to the Department of the Interior for protection as a national wildlife refuge.

The Nature Conservancy is now working with at least 10 state governments and the Tennessee Valley Authority to institute "Heritage Programs" to identify and protect the lands that best represent the individuals states' natural heritage. These state programs are actively supported by the U. S. Department of the Interior's Bureau of Recreation (now renamed Heritage Conservation and Recreation Service). Iowa should become involved in such a program, or initiate a program of its own.

CURRENT SITUATION--USE OF LESS--THAN--FEE TECHNIQUES

Iowa Conservation Commission

Currently, less-than-fee title techniques are used throughout Iowa in a variety of forms and by many organizations. Some of these techniques are used by the Iowa Conservation Commission. Conservation Commission leases have already been discussed in the section on less-than-fee techniques.

The Conservation Commission occasionally uses easements, but the Commission may only obtain easements from willing sellers. The Commission has a few flowage easements which allows water to be backed up on a landowner's property for a short while in times of high water in lakes or reservoirs. Presently, the state pays whatever price is necessary to obtain these flowage easements. In some instances where a flowage easement cannot be negotiated, the County Board of Supervisors is

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requested to use condemnation authority to obtain the easement. The price so far has been nominal but will certainly increase in the future. The Commission has no easements for sewer and water lines or systems at this time. If the Commission obtains a sewer and water easement outside a state area, it usually gives the easement to a city or local unit of government for their management.

Some states obtain easements for trout streams and public access. The Iowa Conservation Commission presently does not have easements for trout streams or public access. (The Conservation Commission does have trout stream agreements with landowners to allow the public fishing on their lands.) The Iowa Conservation Commission does not have trout stream easements. Evaluation of the program revealed that the best management and water quality maintenance programs occur when the Commission or other public agencies own the streams in fee title to insure the greatest amount of water quality control. The Commission's goal is to purchase five miles of trout streams per year for the next 10 years bringing approximately 87.5 miles of trout streams into public ownership out of a total of 220 miles. Presently, the Commission holds fee title on 32.4 miles on 21 trout streams. Another 5.1 miles are owned by county conservation boards and the City of Decorah.

The Commission has concerns about existing easements it has and future easements it may obtain. Enforcement of the easement provisions becomes a problem when the landowner inadvertently or deliberately ignores provisions in the easement. The question of providing protection to the private landowner's property from the public must be answered. Another potential problem as expressed by some agencies with easement programs is the enforcement of easements as ownership of the land changes. Enforcement of provisions in the easement and protection of the area may become problems if the new landowner fails to abide by the easement provisions. There is a tendency in transfers of property to diminish, downplay, or ignore the easement stipulations. Most people when acquiring property in fee title tend to feel they have acquired all property rights. The need to re-record the easement provisions may be necessary at certain intervals (such as every 20 years) to insure that the provisions are well-known to landowners and potential landowners.

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Another difficulty with easements could be the length of the easements. Perpetual easements should present no problems with termination unlike easements for a certain period of time. These term easements may be renewed, or just as likely, they may not, and the original purpose of the easement may be lost.

County Conservation Boards

Other organizations in Iowa in addition to the Conservation Commission use less-than-fee techniques in dealing with land use management. Ninety-eight of Iowa's ninety-nine counties have county conservation boards which are authorized by Chapter 111A of the Iowa Code to "acquire, develop, maintain, and make available to people of the county such areas as parks, preserves, recreational centers, county forests, and wildlife and conservation areas". These county conservation boards use all the "tools" which are available to them. This ranges from purchasing lands in fee title to using a variety of less-than-fee techniques. County conservation boards lease areas often with the option to purchase at a later date. County conservation boards generally use few easements. The types used include water flowage easements and access easements to land-locked areas. County conservation boards may acquire lands through donations and gifts. County boards also may acquire land through management agreements with other political entities. In some instances, third party agreements are used. For example, the Corps of Engineers transfers property to the Iowa Conservation Commission which in turn is transferred to the local county conservation board to manage.

Iowa Department of Transportation

The Iowa Department of Transportation (DOT) on occasion uses less-than-fee techniques. Easements are used infrequently, although DOT has a few flowage easements on some Corps of Engineer lands. Some Conservation easements have been acquired in scenic areas. The DOT uses leases to a great extent, often leasing the land back to

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the original property owner on a cash rent basis if they have no immediate need for the land, but they keep the warranty deed to control access to their lands.

The DOT also has a form of zoning power available to them as authorized by legislation for the Mississippi River Parkway for the Great River Road (Chapter 308.9). Chapter 308.9 states that after an area of proposed new or reconstructed roadway has been located on DOT's Great River Road study map, persons shall not build, move, or alter any existing structures without giving the DOT 60 days' notice by registered mail of the intention to construct, alter, or add to the existing structures on the sites. This provision has yet to be applied or tested in court.

Iowa Natural Resources Council

The Iowa Natural Resources Council has floodplain zoning power delegated in Chapter 455A.35 of the Iowa Code. The council may establish and enforce regulations for the orderly development and wise use of the floodplains of any river or stream within the state. The Council may also assist and cooperate with local units of government in establishing encroachment limits, floodplain regulations, and zoning ordinances relating to floodplain areas in their jurisdiction.

Other States

Minnesota

Other states around the nation have various programs utilizing less-than-fee techniques in their scenic rivers program and other programs. Minnesota has a very successful and well-supported program. In 1973, Minnesota passed their Wild and Scenic Rivers program and now has four scenic rivers designated, totalling 225 miles. An additional two rivers with 170 miles have been through the public review process for possible inclusion into the program. The Minnesota program has made

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great effort to involve the public. The program has maintained good contact with legislators by keeping them informed and involved with program process and by taking them out on the rivers being studied. This legislative contact has made this a successful program. Prior to 1973 and the Wild and Scenic Rivers passage, the Minnesota Department of Natural Resources (DNR) had one staff person in the Rivers Section and only \$100,000 for river planning. Now they have 14 full-time staff people in the Rivers Section with a biennial budget of over \$4 million for the Rivers Section. They have had great support from the legislature for this program.

In the last session of the legislature, the Minnesota DNR was given authority and funding to study six additional rivers. They plan to maintain the current level of study for another two years and then lessen the level of concentration. Eventually, 15 to 20 rivers may be included in this program.

One of the keys to Minnesota's successful program is its flexibility. The Scenic Rivers program works to a large extent with easements and zoning provisions. If a landowner does not wish to sell an easement but wishes to sell his property in fee title, the flexibility and funding of the program allows that possibility.

The Minnesota DNR and the provisions of the Wild and Scenic Rivers Act are opposed to the concept of eminent domain or condemning land to achieve their purposes. The DNR believed that they could make the Wild and Scenic Rivers program work without condemnation, and they have been very successful in selling their program to the public and to specific landowners. The DNR feels that their programs are more successful without condemnation than if condemnation was available and used in their programs.

Minnesota actively involves the public in every stage of their scenic rivers as much as possible. On the last few rivers which have been designated, Citizen Advisory Committees are designated and become actively involved in the planning process. These Committees offer advise, sometimes write portions of the plan, and vote on different portions of the plan recommendations.

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Once a river has achieved official designation, local zoning authorities have up to six months to adopt local zoning provisions for the river. If the local governmental zoning authorities have not enacted local zoning provisions to protect the river, the state steps in and uses its power to zone the river for protection. (In addition to this zoning authority, Minnesota also has statewide zoning protection for its shorelands. This statewide zoning protection of shorelands, as indicated by representatives from Minnesota, is the key to their success and the reason for not needing condemnation authority.)

After zoning controls are established, the DNR starts contacting landowners to purchase scenic easements along the river. They use one designated appraiser along each river to maintain consistency and good will with landowners. The DNR strongly maintains that they cannot accomplish the scenic rivers program without more than at least one land use tool. Although zoning is essential, zoning alone will not accomplish the program's purpose. Neither will scenic acquisition alone make this a workable program. The flexibility in the scenic rivers program and the variety of land use tools available enable this program to operate successfully.

Wisconsin

Wisconsin has successful programs using fee and less-than-fee techniques. Wisconsin leases land for pheasant hunting areas. Wisconsin also uses scenic easements to maintain scenic quality on 18,000 acres along the Great River Road. They also have an extensive scenic and recreational rivers program where easements are acquired along rivers to protect scenic qualities.

In 1960 Wisconsin passed legislation placing a one-cent tax on packages of cigarettes to be used for the purchase of land and easements for rest areas, recreation lands, and scenic protection. In 1969, a bonding procedure was instituted to raise funds to replace the cigarette tax which ended in 1969.

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The easement approach has been successful for Wisconsin since they rely heavily on property taxes for their various local services. Local governments like the easement idea because easements do not take lands off the property tax rolls.

Easements are not always a popular idea with landowners and are often very hard to obtain. The Wisconsin DNR tries to effectively sell this program to landowners and the public and tries to use their best, most capable people on this program. The DNR needs flexibility in easement negotiations to accommodate landowners. Easements need to be carefully explained and fully understood by both parties. Their provisions need to be as precise as possible to avoid later confusion and misunderstanding. Easements should be tailored to fit the type of management that is desired.

Enforcement provisions should be included in the easements. Wisconsin plans to have regular inspections and friendly discussions with the landowners at least every five years to maintain good relationships and to review easement provisions for clarification. Every 20 years the DNR plans to re-record the easement documents to enable others like potential landowners to be aware of the easements.

Wisconsin has found that easements can be expensive. Often the rights may cost 60 to 80 percent of fee title, and sometimes may cost more than outright purchase in fee title acquisition. Two very costly rights to easements are the right to allow public use on one's land and development rights. Wisconsin also has the authority to condemn lands for "public improvement" but has never used that power. However, Wisconsin does have this tool of condemnation to back up their easement program, and this aids in easement negotiation.

Wisconsin has an all-inclusive shoreland, floodplain zoning legislation which helps to preserve and protect its rivers. Wisconsin also has zoning authority from their Water Resources Act which provides for county control of development along shorelands of lakes and streams. If the counties do not impose and enforce this zoning, the state must become involved and assume the responsibility. (This is a similar approach to that used in Minnesota and proposed for Iowa under the Protected Waters Area Act.)

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The same zoning requirements apply for all county landowners whether they give easements or not. Without easements, it sometimes may be construed as a taking of property rights without compensation. This helps convince more landowners to participate in the easement program. Easements depend on public support. The biggest mistake public agencies can make is thinking that statutory authority will make a program work when they do not have the public's support for that program.

Michigan

Michigan has a successful Natural Rivers Program. In 1970 the Natural Rivers Act was passed by the legislature designating natural rivers under one of three categories: Wilderness, Wild-Scenic, or Country-Scenic. This Natural Rivers Act along with programs such as Wilderness and Natural Areas, Farmland and Open Space Preservation, Great Lakes Shorelands, and others is an important component of Michigan's total land management program.

In 1972 the Jordan River was designated as Michigan's first "wild-scenic" river in their natural rivers program. The program gained momentum in 1973 when three more natural rivers were designated. At that time study was also initiated for 13 additional rivers. Presently, Michigan has six rivers designated in their Natural Rivers Program with all three classification of rivers represented. These six rivers total 251 miles of mainstream and 390 miles of tributaries.

When natural rivers are designated into Michigan's program, appropriate zoning ordinances must be adopted by local authorities within one year to protect the river or the State will step in and use State Administrative Rules authority to zone the river. Zoning of lands along the rivers as "natural river districts" is the chief means of guiding future development. Natural rivers zoning is simply an extension of zoning principles currently applied to residential, commercial, and industrial development. It is a valid means of protecting the public trust which has traditionally been held for water resources. State Administrative Rules were developed to

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zone Michigan's first natural river, the Jordan River, when it became clear that local governmental units had decided not to accept the responsibility for developing and administering local zoning ordinances.

Michigan's DNR cannot obtain land through condemnation under the Natural Rivers Act. Partial interests in lands or fee title may be purchased by the DNR with the consent of the landowner.

Presently, action to have a stream added to Michigan's system of Natural Rivers must be initiated locally, rather than by the State. After a stream is nominated, a long-range management plan for the river is developed jointly by the DNR, local governments, and local citizens.

Michigan has found that it is essential to involve citizens, local units of government, and conservation organizations in the planning process of the Natural Rivers Program. These parties need to be actively involved in evaluating these natural river areas and developing preliminary plans. The DNR staff has been working with county and township officials to develop zoning ordinances and in the last few years have averaged working relationships with 16 counties and 44 townships annually. They have also continued surveying additional rivers for possible inclusion into the Natural Rivers Program and developing local interest in the program.

New York

New York State is also actively involved in a scenic rivers program. In 1972 legislation for New York State's Wild, Scenic, and Recreational Rivers System was passed and designated 15 rivers totalling over 172 miles within the Adirondack Park into the New York program. Additional rivers must be approved by the Legislature and the Governor before their designation into the Rivers System program. In 1975 an additional 1,027 miles on 55 rivers within the six-million acre Adirondack Park became part of the Rivers System along with 28 miles on sections of six rivers just outside the Adirondack Park. Studies have been completed by the Department of

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Environmental Conservation (DEC) or by citizen groups on 49 other rivers outside the Adirondack Park. Evaluations of these studies or follow-up studies are ~~required.~~ required.

The New York DEC places important emphasis on involving the public in full participation in the designation and management processes of the rivers program. The DEC establishes a local advisory committee to gather input of public and private interests during the study. The DEC also works closely with regional and local planning agencies and tries to get maximum protection through local governmental authority to regulate land use with zoning and landowner agreements. When local governments use their authority to protect the river corridor, the legislatively authorized powers of the Department of Environmental Conservation to exercise land use controls can be minimized.

The DEC has the power of eminent domain which may be used for regulating land use within Wild, Scenic, and Recreational River corridors. Condemnation for fishing easements is possible but is infrequently used. Condemnation may create many opponents to the state's river program. As a result, it is used sparingly with great tact and caution to avoid the distrust and bad feelings of local landowners.

New York State has had a very successful trout stream easement program since its initiation in 1935. Through this program, 900 miles of easements were obtained by 1967. Landowners are fully informed of easement provisions, and the easement negotiator eventually is responsible for enforcing these provisions. Easement costs are standardized for each stream, and an identical rate per mile is paid to landowners which eliminates conflict between owners.

Zoning in New York is a tool which is used along rivers by local governments. Local floodplain zoning helps control development along rivers. Also, regular zoning provisions help protect the rivers. There are problems with the consistency of zoning controls applied when many cities and townships are along a river. Zoning

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lacks permanence noted by the ease with which variances of compliance to zoning provisions are granted. There is little guarantee that future zoning boards will maintain the present zoning laws.

Maryland

Maryland is quite involved in a scenic rivers program. In 1968 they passed the Maryland Scenic and Wild Rivers Act which established rivers for classification as either wild or scenic. Nine rivers were initial components of this program. The Youghiogheny River is presently being studied by the U. S. Department of the Interior for inclusion into the National Wild and Scenic Rivers System.

The Scenic and Wild Rivers Act sets forth two basic tasks for the state program. First, the Department of Natural Resources is to prepare a comprehensive plan for the use and development of the water and land resources of each designated river. Secondly, the Department must inventory and evaluate all other rivers in the state for possible inclusion in the scenic rivers system.

Various scenic river management techniques are used. These include fee acquisition, scenic easements, zoning, and regulation through existing programs. In most cases the county zoning authorities will be the ones responsible for implementing shoreline preservation guidelines for private lands adjacent to designated scenic rivers.

In 1967 the Maryland General Assembly passed legislation creating the Maryland Environmental Trust. This Trust agency was created to conserve, improve, and maintain the natural, scenic, and cultural qualities of the environment of Maryland. The Trust is funded by the General Assembly and is also authorized to accept private donations of money, real estate, or other property. These gifts are tax deductible for the donor just as the value of conservation easements are tax deductible.

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The Trust tries to inform people and groups of Maryland's unique natural and man-made environment. The Trust also works with government policies, programs, and drafting legislative bills. The Maryland Environmental Trust also helps to preserve unique or rare natural areas, productive farmland, wild or scenic rivers, stream corridors, open spaces, or watersheds by arranging the donation of open space and conservation easements by private landowners. The Trust wrote and published Conservation Easements: To Preserve A Heritage which explains the law, techniques, and tax effects of donating easements. The Trust has distributed over 12,000 copies of this booklet since 1974, and they have been given easements on 3,784 acres in 10 counties.

The Trust also has county committees which are autonomous with their own board of directors. They concentrate on local issues and projects which have included strip mining, wetlands modifications, environmental legislation, and Save Our Streams projects. Purchases of Development Right Funds are provided by funds from the property transfer taxes.

Indiana

Indiana, an agricultural state similar to Iowa, has a successful scenic rivers program. Indiana passed their Natural, Scenic, and Recreational Rivers Program in 1973. This program classifies designated rivers into the three classifications: natural, scenic, and recreational. Two streams have been designated into the system and one other stream has been recommended for designation. Also, seven rivers have been studied, and nineteen additional rivers have been recommended for study. Indiana's Department of Natural Resources (DNR) has three staff people working on both trails and streams. They plan to study one stream a year for possible inclusion into the Natural, Scenic, and Recreation Rivers Program.

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The success of the Natural Rivers Program and the preservation of a stream is dependent upon the support and involvement of adjacent landowners, local public officials, and other interested citizens. The DNR holds a number of informational meetings in the area of the stream under consideration for questions and answers about the program. A citizen advisory group is formed which includes local landowners, public officials, representatives of local organizations, and other interested individuals. The advisory group works closely with the DNR in its study of the stream to determine if the stream is worthy of designation and also in the preparation of a plan for the protection and management of the river. Local advisory groups have worked very successfully with the DNR on both of its designated streams as well as the other river recommended for designation.

The DNR does not publicize rivers which are officially designated rivers in the Rivers Program in order to curtail the increase in use that may occur. The DNR distributes a canoe rivers booklet but makes no special mention of "Scenic Rivers" designation.

The Indiana DNR has worked very closely with The Nature Conservancy with various projects. Some of the landowners along streams have given or sold easements to The Nature Conservancy and have received large tax reductions for this action.

The DNR has not had much success with easements in Indiana to date. The easements that have been acquired have been costly. Some have cost 40 percent of fee title costs, while others have been up to 80 percent of the fee title costs.

The DNR has the power of eminent domain to obtain conservation easements but has not used it. The State does not have statewide zoning authority but relies on local zoning provisions. The River Commission Bill just passed in 1978 by the Indiana Legislature establishes local river commissions to work and deal with programs and provisions along the rivers.

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Federal Agencies

U. S. Army Corps of Engineers

Federal agencies also use less-than-fee techniques in their land use management. The U. S. Army Corps of Engineers leases lands to individuals and companies. Along the Mississippi River for example, the Corps leases lands for fishing bases, cottages, parks, recreational areas, and business enterprises.

The Corps of Engineers also uses two types of easements. They obtain right-of-way road easements and flowage easements from private landowners when necessary. Flowage easements have restrictions which do not allow areas to be filled with soil, rock, or other material which would change the flooding characteristics of the area. Additionally, habitable structures are not allowed to be built.

U. S. Fish and Wildlife Service

The U. S. Fish and Wildlife Service uses easements to a large extent in some areas. They have easements for 500,000 acres, mainly in Minnesota and the Dakotas, to preserve the habitat for wildlife and waterfowl. These easements prohibit draining potholes and burning marsh vegetation. Normal farming is allowed on areas which dry out naturally.

National Park Service

The National Park Service has been using easements since the 1930's. They used easements along the Blue Ridge Parkway, Great Smoky Mountain National Park, and Shenandoah National Park and along the old Natchez Trace. Management problems were encountered with adjacent landowners. The main problem was that landowners did not fully understand the easements. (These were negotiated by state highway officials rather than National Park Service officials.) Finally, after more friction between landowners and the National Park Service, a 1961 statute authorized the

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exchange of scenic easements held by the government for smaller areas of fee title land along the parkways.

The National Park Service also acquired scenic easements along the Current River and other scenic rivers in the Missouri Ozarks. The land was appraised for scenic easements by registered land appraisers, but the Park Service people believed these appraisals excessive and agreed to pay one-third of the appraised value of the easements. The landowners were unaware of what land rights they were giving up in the initial easement negotiations in 1967-68.

As the landowners became aware of the easement restrictions, bad feelings and hostility resulted. Without exception, landowners did not know what property rights they were giving up. The terms of the easements virtually destroyed land values where the terms required that open spaces along the river be maintained and development prevented.

The Park Service has examined problems with these easement programs and has found evidence which might suggest that flaws in execution and administration of easements were the root of the difficulties rather than the easement concept itself. One thing that has been learned is that easements must be negotiated with the greatest precision possible. Also essential is thorough landowner understanding of the consequences of all easement provisions for himself and his property at the very onset of the negotiations. Sufficient notice to subsequent owners is necessary as well as regular inspection to ensure that easement provisions are understood by new owners. Finally, the relationship with the public is critical. If scenic easements are to be successful, it is essential that they be limited to those areas where only scenic controls will suffice. It is most important that land use controls be actively desired by the landowners to protect the scenic beauty of the area.

Presently, the National Park Service has easements in other areas of the country. The Park Service has utilized easements along the Upper St. Croix River between Minnesota and Wisconsin. Easements are also held in connection with Guadalupe Mountains

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National Park in Texas, Dinosaur National Monument in Utah, the Nez Perce National Park in Idaho, and Acadia National Park in Maine. The Park Service has also made use of scenic easements to control land adjacent to Civil War battlefields such as Antietam Battlefield in Maryland, Manassas in Virginia, and Vicksburg in Mississippi.

The program of the Park Service has generally concentrated on the preservation of open space in relation to the National Park System, but the easement tool has also been used for areas regulated under the Historic Sites Act. A number of national historic landmarks have been protected by "scenic or preservation easements" given to the U. S. Government which drastically limit changes to the exterior and surroundings of historic buildings.

The National Park Service is involved in the National Wild and Scenic Rivers System. In areas where the Federal agencies own 50 percent or more of the lands in the area, they cannot condemn land needed for the project in fee title. They may condemn for less-than-fee title rights, such as easements, and may still negotiate for voluntary fee title land sales.

POTENTIAL USE FOR CONSERVATION COMMISSION PROGRAMS

The Conservation Commission needs the flexibility of many less-than-fee techniques to effectively manage land while at the same time responding to everchanging times and public needs. The more flexibility the Commission has, the better able they will be to accommodate landowners and accomplish management objectives. In addition to needed land use tools, public agencies must have sufficient staff and funding to accomplish their objectives. They must also develop public support.

I In some instances, especially in intensely developed areas such as state parks, the Commission needs entirely fee title control to the lands for complete management and development. In many areas less-than-fee techniques can adequately control land

uses for the proper type of land use management desired. And in many cases a combination of less-than-fee means and fee title means is the best way to accomplish the Commission's management objectives. An example of this combination could involve a management plan along a scenic river where certain areas such as campgrounds are held in fee title while other areas along the river are controlled by less-than-fee means such as zoning, easements, or open space tax credits to maintain scenic quality. A comprehensive plan should be written for each project utilizing fee-title means and less-than-fee title techniques to allow for optimum program management and development.

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