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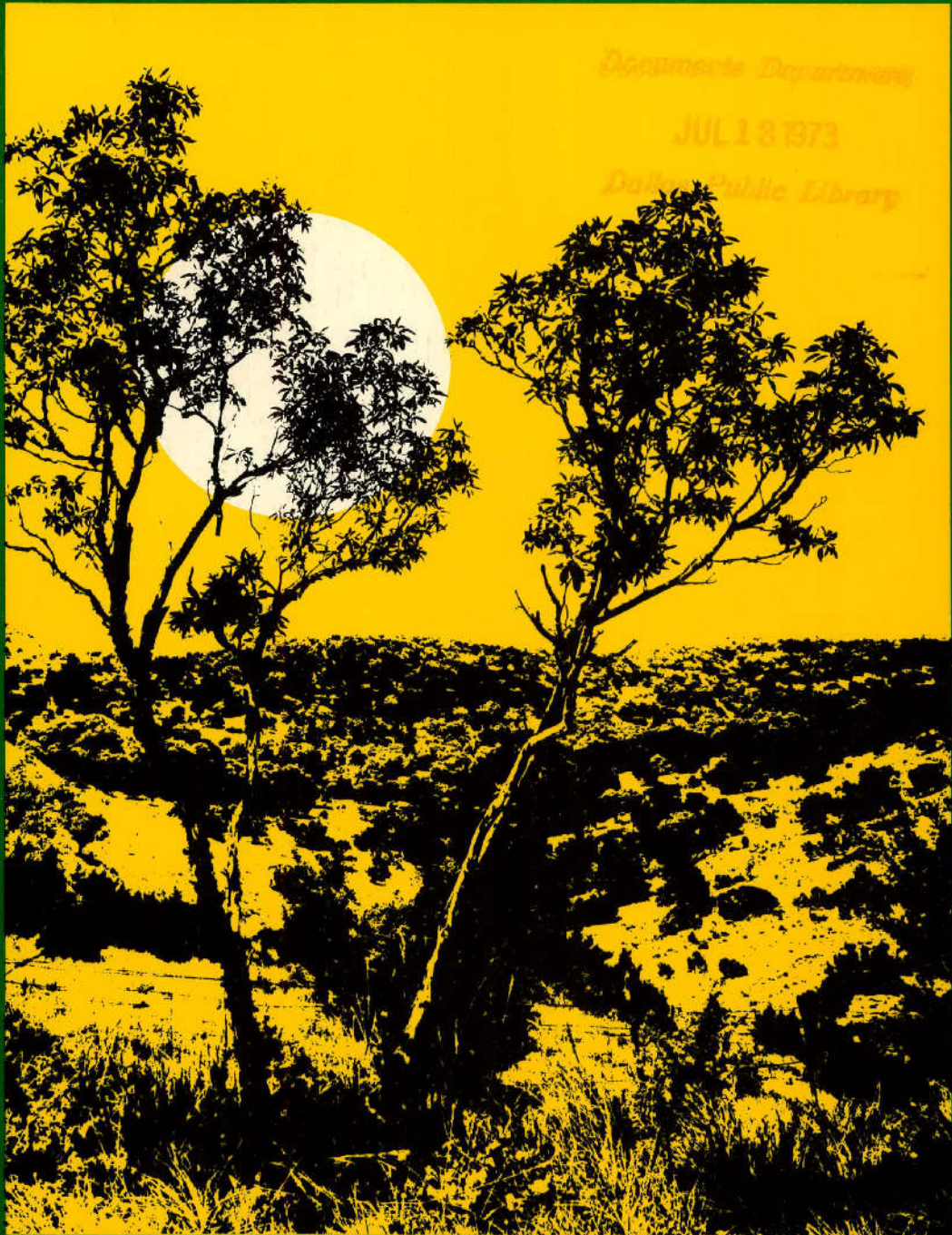
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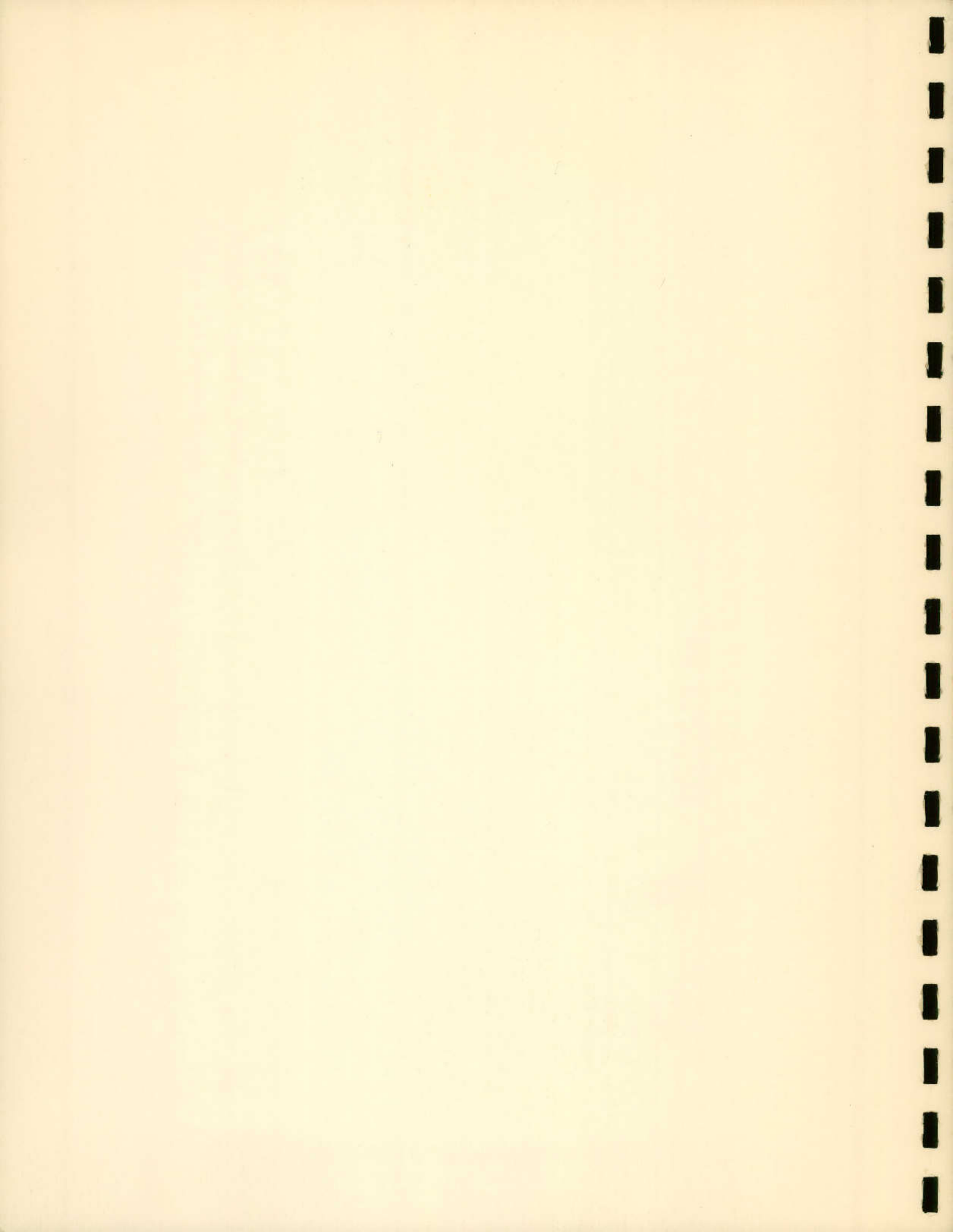
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**prepared by**  
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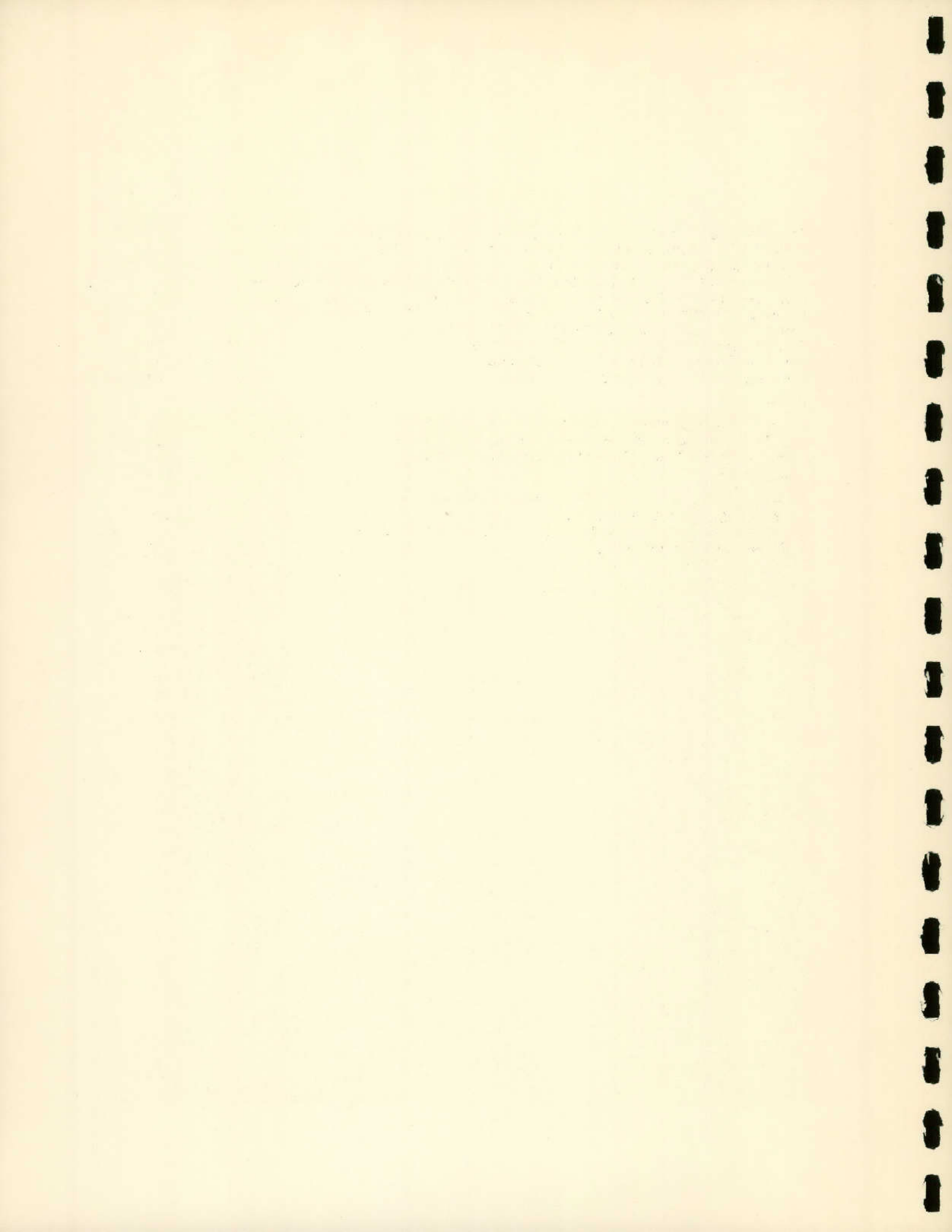
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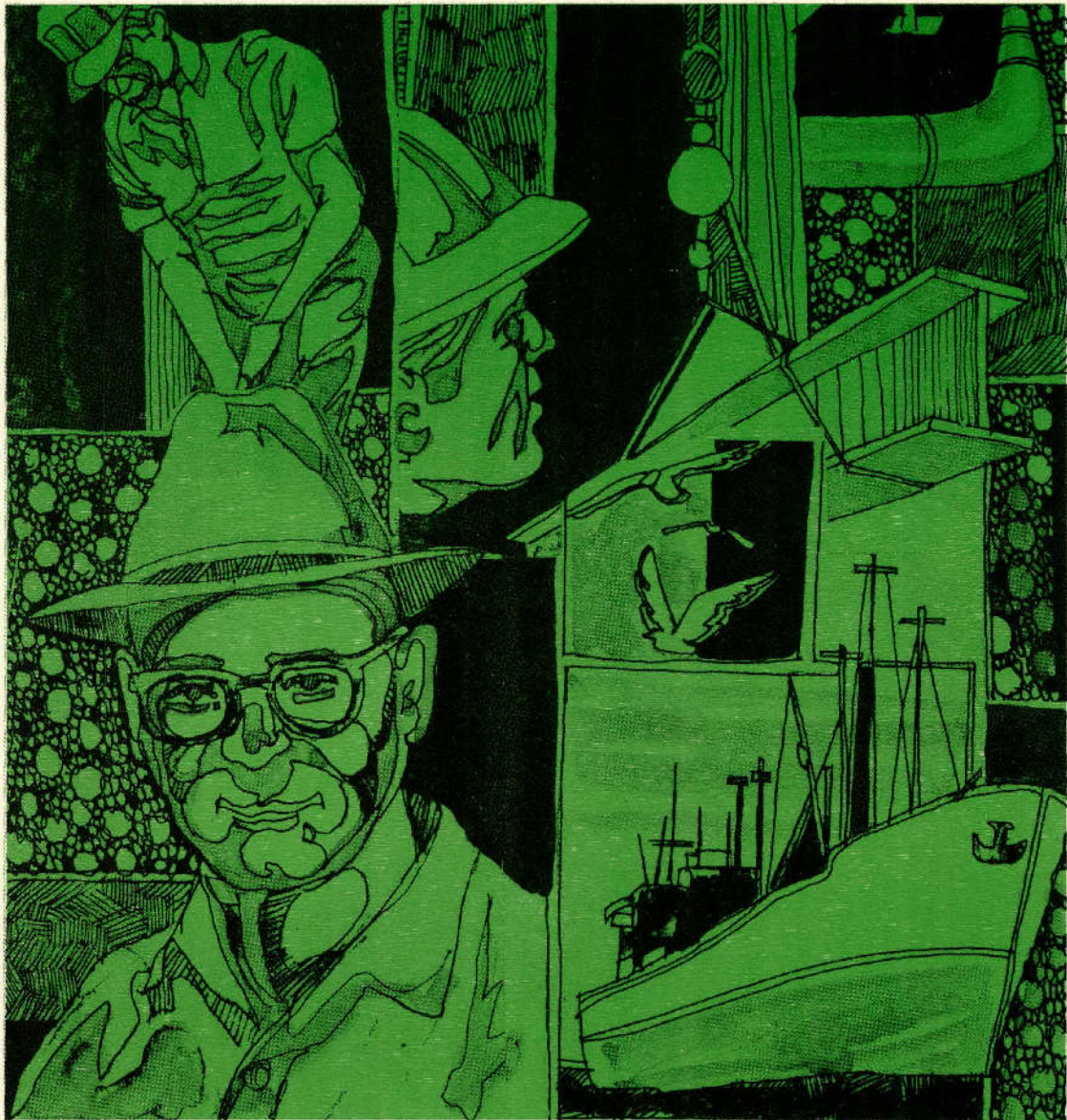
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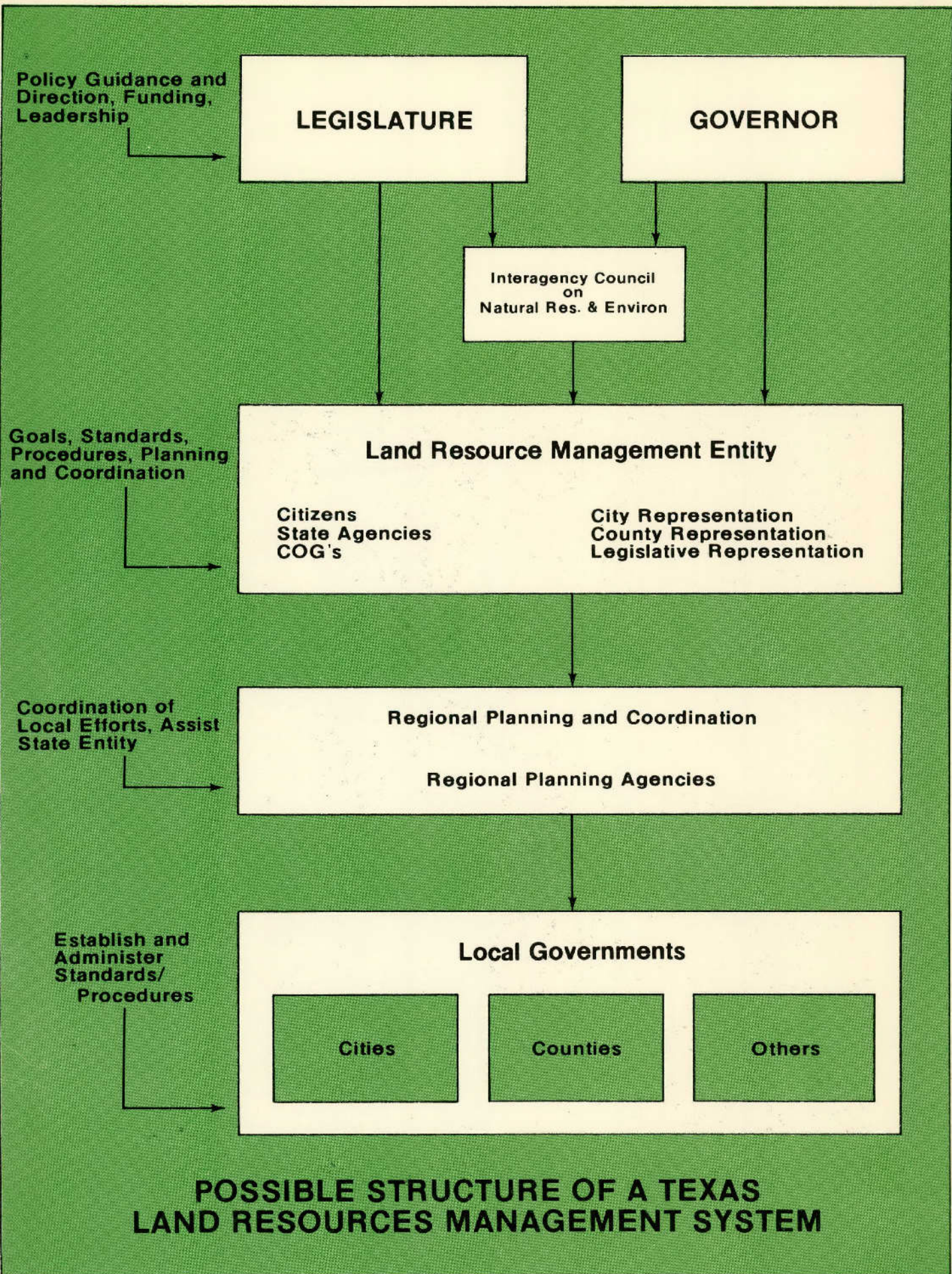




## FOREWORD

Texas has two primary assets: its people and its land. The concept of land conveyed here is that of a basic natural resource encompassing our total environment and geographic area; land and water; surface and subsurface; and everything thereon or within. Land must be capable of accommodating the fullest range of human activities if the standards of living which we enjoy today are to be maintained and improved. Thus, the future of Texas is tied directly to the productive capabilities and natural attributes of our land. Present and future Texans alike have a vital stake in *Texas Land — its quantity and its quality.*





**POSSIBLE STRUCTURE OF A TEXAS LAND RESOURCES MANAGEMENT SYSTEM**

## **SUMMARY OF FINDINGS AND RECOMMENDATIONS OF THE TEXAS CONFERENCE ON LAND RESOURCE MANAGEMENT**

The results of the Conference were expressed in the following format.

### **POSITION STATEMENT**

The participants in the Texas Conference on Land Resource Management determined that in order to ensure a higher quality of life for all citizens, a land resource management program should be adopted which places state government in a position to exercise the necessary degree of guidance over growth and development in the state. Recognizing the necessity for a greater role in land resource management by state government, any program which is adopted should emphasize and preserve the processes of local governments and the rights of private land owners. The role of state government should be focused on those decisions pertaining to land and related uses which have substantial impacts beyond the boundaries of local governments in which the use is located. The program should involve the designation of areas and developments of critical state concern, and the establishment of principles, standards, and criteria to guide the use of those areas and developments. The adopted program is not to be one of merely negative controls, but rather an incentive and guide to the State in achieving its goals and objectives.

### **SUMMARY OF RECOMMENDATIONS AND PRINCIPLES TO GUIDE THE DEVELOPMENT OF A STATE LAND RESOURCE MANAGEMENT PROGRAM**

- Recognize a legitimate and emerging new role for state government and regional entities in land resource management, designed to complement and strengthen the existing local effort.
- Ensure that no element of a state land resource management program is unduly restrictive of private rights or constitutes a taking of property or rights without just compensation.
- Strengthen and improve existing mechanisms which have already proven effective and provide incentives and means necessary to their use.
- Acknowledge continuing role of local governments in land use planning and management and propose specific enabling legislation to strengthen this role.
- Stress an equitable intergovernmental system of land resource management, especially through intra-governmental and inter-governmental coordination of planning activities.

- Provide for adequate consideration of economic and social problems, as well as environmental problems.
- Improve and coordinate the collection and utilization of data and information.
- Provide means of enhancing public awareness of land management needs, and of increasing opportunities for public participation in processes related to a land resource management program.
- Accommodate the expected requirements of pending federal land use policy legislation.

**ROLES AND RESPONSIBILITIES FOR EACH LEVEL OF  
GOVERNMENTAL PARTICIPATION IN A  
TEXAS LAND RESOURCE MANAGEMENT PROGRAM**

**STATE:**

- Legislative Responsibilities
  - Consider legislation which (a) meets immediate land resource management needs; (b) strengthens interagency and interfunctional coordination for land resource management planning and administration; (c) establishes the goals and broad policies to guide this program; and (d) permits the establishment of a broadly representative entity for guiding the development of a state land resource management program.
- Executive Responsibilities
  - The governor should (a) make appointments to a state land resource management entity, with legislative confirmation; (b) guide the policy formulation and planning processes of a land resource management program; (c) provide staff support and participation in interagency planning and coordination; and (d) recommend needed enabling legislation.
  - The Interagency Council on Natural Resources and the Environment should (a) provide advisory assistance to a state land resource management program entity; (b) provide data and other supportive assistance to the entity; (c) continue to provide the coordination and cooperation which is needed to ensure an effective and integrated interfunctional planning process; and (d) participate in evaluating any proposed policy or planning recommendations on land resource management.
  - A Texas land resource management entity should (a) identify goals, examine and evaluate the likely consequences of attaining the goals, and evaluate the potential costs of alternative approaches to achieving adopted goals; (b) identify areas and developments of critical state concerns; (c) authorize regional planning agencies to suggest areas and developments of critical regional concern; (d) provide guidelines for administration and regulation of designated

critical areas and developments; (e) encourage local governments to adopt and administer effective land use and development programs; (f) provide for evaluation of local planning and regulatory programs relating to critical areas and developments and make provisions for intervention in cases of local default; (g) ensure that adequate protection of private rights and interests are provided at each level of government; and (h) provide for public information and participation in a state land resource management program.

#### **REGIONAL:**

Regional entities should:

- (a) provide service and information inputs to a state land resource management program.
- (b) participate in establishing criteria and guidelines for identifying and designating areas and developments of critical regional concern.
- (c) prepare regional land use plans.
- (d) provide assistance in establishing effective local planning activities.
- (e) establish mechanisms for public participation in a land resource management program.

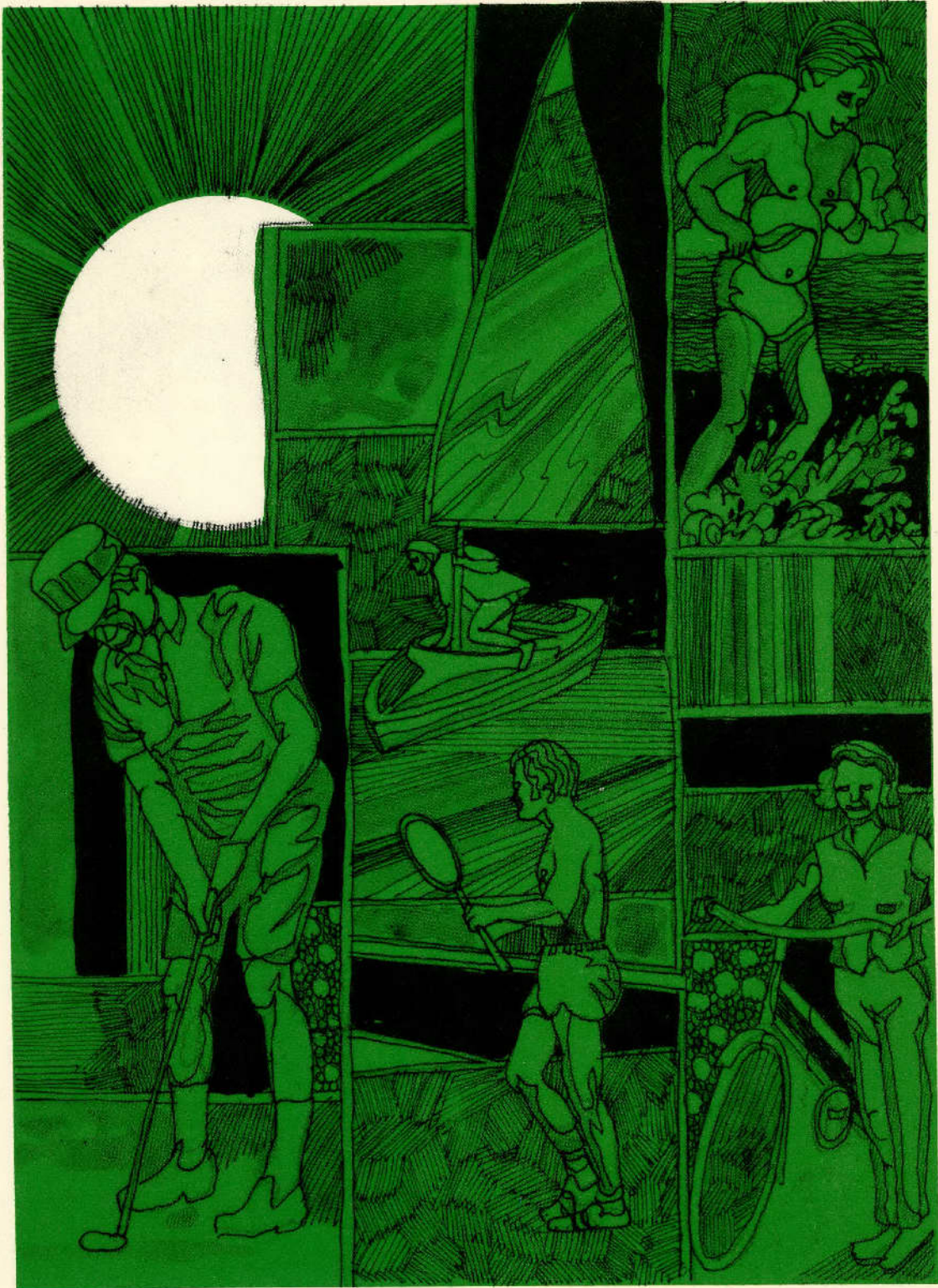
#### **LOCAL:**

Local governments should:

- (a) provide the major share of responsibility for a land resource management program.
- (b) assimilate and use new land resource management capabilities as provided.
- (c) make more effective use of available authorization for inter-local and inter-governmental activities.
- (d) provide strong local leadership and input to regional aspects of a land resource management program.
- (e) ensure adequate protection of private rights and interests.

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NOTE: The full unabridged text of the results of this Conference are attached as Appendix I.



## I. BACKGROUND AND PURPOSE OF THE CONFERENCE

The Texas Conference on Land Resource Management was convened in San Antonio on August 21-22, 1972 for the purpose of exploring various approaches which would lead to a more effective system of land resource management for the State of Texas. The approach endorsed by the conferees is one similar to the American Law Institute's "Model Land Development Code" and should help to provide a general direction for future program development in Texas.

This Conference, co-sponsored by the Council of State Planning Agencies and the Office of the Governor of Texas, brought together a select group of knowledgeable individuals representing a wide diversity of interests and backgrounds, both public and private. The list of participants included a balance of outside experts and informed citizens of the state. Sponsors of the conference believed that knowledge of both the positive and negative aspects of actions taken in other states and of activities at the national level of government would be useful as stepping stones from which Texas could plan an effort directed at meeting its own particular land use problems. In essence, it was felt that Texas could profit from the experiences of others.

The format of the Conference was divided into four sessions. The opening session was designed to identify current land use problems and issues in Texas. The objective of the second session was to provide an opportunity for the participants to synthesize the issues raised in the first session and then to discuss the various approaches to land resource management which related most directly to resolving these issues. In the third session the more feasible approaches were to be set forth in some order of priority, so that one approach or one set of approaches best adapted to the land use needs of Texas could be selected. It was anticipated that the following factors would influence the choice of a recommended approach: (1) legal obligations, as set out in the State Constitution or existing State and federal laws; (2) political acceptability; and (3) intergovernmental compatibility. The final session of the Conference was to be a discussion of the administrative procedures, appeals processes, and organizational structures necessary to support the recommended approach.

Because so much was to be covered in a limited period of time, the conferees were limited to a select group of twenty-two individuals invited to participate in the Conference. However, since this was a public venture and greater public understanding of the subject matter was a recognized need, the Conference was open to observers. The observers were provided with an opportunity to express their thoughts during the second session.

In addition to the participants, a number of State agency representatives were invited to address the Conference. They were asked to provide briefings on land use problems in Texas during the first session. Most of these individuals serve on the State's Interagency Council on Natural Resources and the Environment, which has given leadership and initiative to Texas in the field of resource planning and management. They also reported on the particular responsibilities of their own agencies in resource management programs. Theirs was a key role, for they collectively and individually provided a broad range of experience and understanding of land use issues throughout the

entire State. It was expected that their comments would set the stage for the discussions which were to follow. After their presentations, many of the agency representatives elected to remain at the Conference as observers.

The open exchange of ideas and airing of concepts about land resource management among the varied interests representing both public and private sectors resulted in a recognition that (1) an effective program will require coordination between all levels of government and between many agencies within any single level of government; (2) local governments should continue to serve as the prime implementors of any overall program; (3) a program should relate to facilitating the positive features of growth and development as much as to controlling the negative aspects of unguided growth and development; and (4) a program should seek an appropriate balance between the environmental, economic, and social interests of the State and all its citizens.

In reaching a consensus of understanding about an approach to land resource management in Texas, the conferees demonstrated that diverse public and private interests can be brought together in the early stages of discussions on the subject and produce positive results. It should be noted that although many of the participants at the Conference could not be classified as willing advocates of a new approach to land resource management prior to the Conference, they were invited because of their interest, knowledge, and open-mindedness about the subject matter.

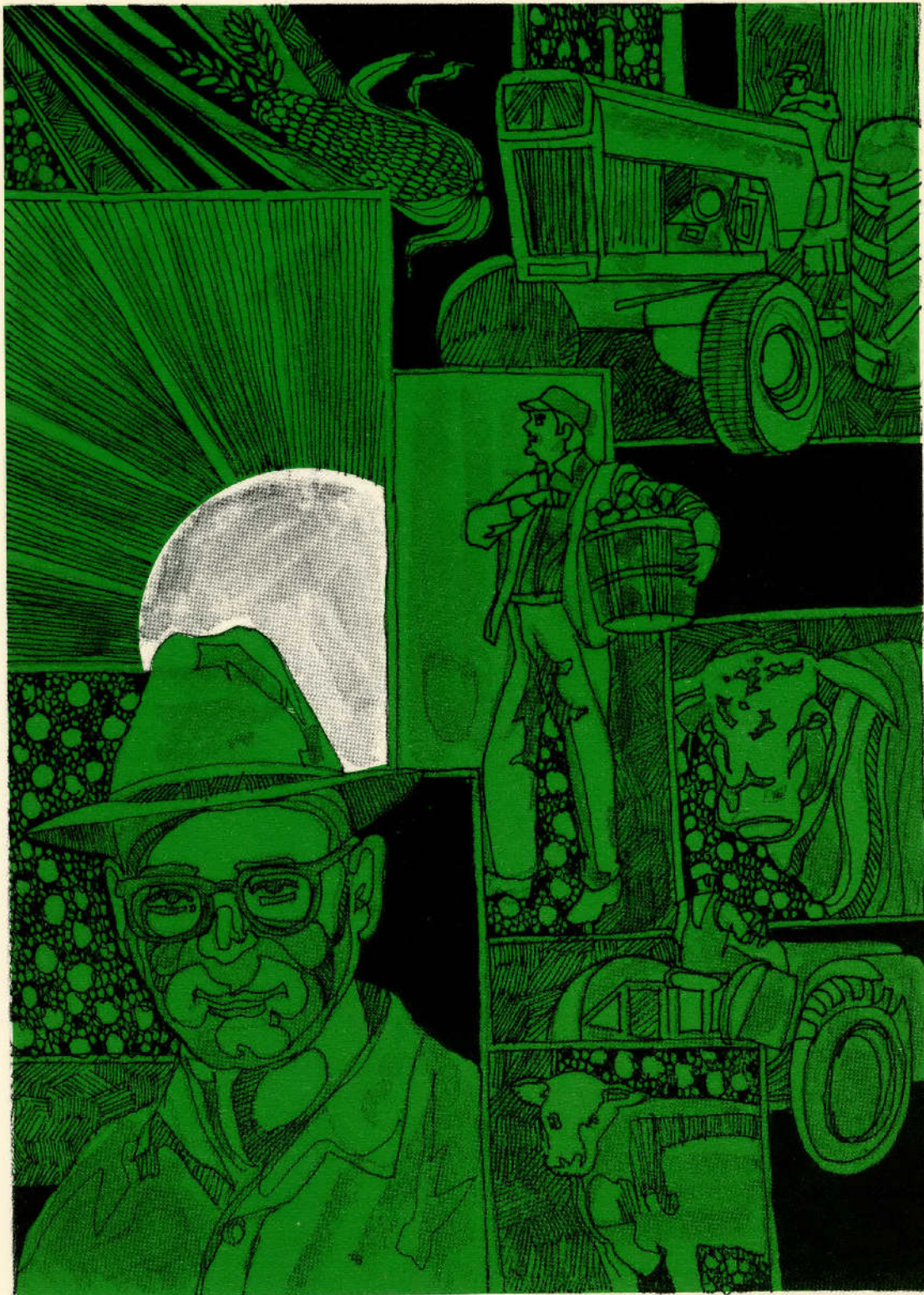
One of the most important goals of the Conference was to develop an awareness that an effective land resource management program requires coordination among all levels of government and cooperation among many agencies within any single level of government. The participants came to understand that the matter of land use relates not only to the interests of State, regional, and local governments, but to the interests of the federal government as well. However, as was often noted during each session, local governments should continue to have a major role in the implementation of a land resource management program.

States sometimes develop an interest in land resource management due mainly to concerns about a critical environmental matter. The conferees agreed that, in so doing, they should recognize the fact that land use can have an equal impact on economic and social interests. The Texas Conference was designed to address itself to more than just environmental matters in the hopes that the base of understanding and support could be broadened at an early stage. There was a desire to acquaint proponents of economic and social interests with the broad implications of land resource management in such a way that special interest groups did not preempt the program solely for their own purposes and unnecessarily drive other interests into positions of opposition. The conferees did develop an understanding that land resource management should equally embrace environmental, economic, and social interests.

Another misconception that was addressed in the Conference is that a land resource management program deals only with means of controlling detrimental development. However, as the participants pointed out, a program can also be designed to facilitate positive growth and development. In fact, both factors should be incorporated in any broadly based, statewide approach.



The Conference succeeded in recommending a general approach to a more effective land resource management program for Texas. It also served the important function of being an educational experience to expand the knowledge of people interested in land resource management and to allay the fears of the uninformed. Although the details of the proposed approach to a Texas land resource management program will still require considerable refinement, the Conference did provide a direction and perhaps will serve as a catalyst for future action.



## II. Trends in State and National Land Use Programs: An Overview

Texas is not alone in recognizing the critical role of the State in improving the capability to effectively plan and manage the use of land as a primary resource of our society. Other states have begun to reassess their proper role and the U.S. Congress has been intensively engaged in defining a national policy regarding land use management which is heavily dependent upon individual State implementation. The following is extracted from the "Land Use Policy and Planning Assistance of 1972," S.632:

*. . . . that there is a national interest in a more efficient system of land use planning and decision-making and that the rapid and continued growth of the nation's population, expanding urban development, proliferating transportation systems, large-scale industrial and economic growth, conflicts in patterns of land use, fragmentation of governmental entities exercising land use planning power, and the increasing size, scale, and impact of private management decisions of wide public concern often are being made on the basis of expediency, tradition, short-term economic considerations, and other factors which too frequently are unrelated or contradictory to the real concerns of a sound national land use policy.*

With few exceptions, until recently, States have delegated most land management responsibility to local governments. The exercise of this responsibility has been the cornerstone of land use planning and regulation in the United States. As cited above by Congress, many aspects of land resource management have become more than matters of mere concern. Many States are increasingly aware of this concern and there is developing throughout the nation a growing interest on the part of State governments in considering means whereby they might more effectively assume their responsibilities, especially in regard to critical areas and developments of greater than local concern.

The consideration of numerous pieces of proposed federal legislation dealing with land resource management has served to further spur the interests of many states, but it is important to recognize that state activity in this area began over a decade ago. Hawaii enacted a very extensive land use law in 1961 which deals with state management of land by broad categorical districts. Shortly thereafter a number of other states such as Massachusetts and Wisconsin began to enact somewhat more limited legislation, directed mainly at environmental matters such as the preservation of wetlands. Within the past few years a number of new approaches to state land resource management have been implemented. The most recent example is the broadly based and innovative Florida Environmental Land and Water Management Act. Despite the implication of its title, this Act can be directed to economic and social considerations, as well as to environmental concerns.

The Florida Act is similar in many respects to the major land use policy bills before Congress in that it focuses on areas of critical environmental concern and on developments of statewide or regional impact. Both major versions of federal land use

policy bills before the 92nd Congress, S.632 and H.R. 7211, dealt primarily with critical areas and developments of regional impact. The House version also included major titles dealing directly with public lands policy and planning. The broadly-based federal proposals were accompanied by many bills which were oriented toward specific land use problems. Of special note among these were the coastal zone management bills (S.3507 and H.R. 14146) and the other bills relating to such aspects as national growth policy strip mining and power plant siting.

Consistent with these federal activities and responsive to the growing public concern regarding efficient and effective land use planning and management, Texas has committed itself to developing a better understanding of the alternatives available for achieving this objective. To accomplish this end, Governor Preston Smith joined the Council of State Planning Agencies in hosting the Texas Conference on Land Resource Management.

### III. FINDINGS AND RESULTS OF THE CONFERENCE

The organization of Conference results can be appropriately classified under four major headings. First is the identification of existing problems associated with the use and management of land resources in Texas. Section two deals with alternative approaches to resolving these problems. The third section identifies consensus agreements among conference participants relative to the general issues of land resource management needs, principles, and actions. Finally, recommendations are set forth to provide a general approach to a land resource management system in Texas.

#### Identification of Problems and Needs

The first general session of the Conference focused on the need to determine existing land use problems and potential land management needs in the State of Texas. Several key issues were evident from the problems which received attention by state agencies. In general terms, these problems deal primarily with conflicts in land use, land and water quality issues and institutional capabilities.

Land use problems are highly correlated with rapid growth and development and the increasing uses of land resources. Industrial development, transportation projects, urban growth, natural resource extraction, and recreation areas are among the major factors associated with increasing land use intensity. Clearly, complete preservation of the natural environment is not compatible with growth and development. The state can neither afford the luxury of complete preservation, nor the cost of excessive exploitation. A careful balance must be achieved to guide growth so that a higher quality of life can be achieved through rational development on the one hand, and adequate protection of the natural environment on the other.

The needs of man and the scope of his activities underlie all of the problems associated with land use. These needs and activities are especially concentrated in the urban areas; hence, increasing urbanization in a state calls for ever greater capability and expertise in the management of land resources. These issues were pointed out in a 1971 report by the Texas Urban Development Commission on "A Land Resource Management System for Texas." The Commission recognized land use planning and management as primarily a local government activity, but also noted that responsibility rests at all levels of government for establishing an approach which would provide:

- (1) A better definition of responsibilities at each governmental level; and
- (2) The establishment of a single statewide framework for land use policy development and implementation activities.

Aside from the recognized need for a statewide land use planning and management framework, a number of resource problems are associated with land use. Water-related resources are of major significance in Texas, and can be appropriately classified as coastal resources and inland resources.

The coastal water-related resources of Texas include extensive natural beaches and the bay and estuarine system along the Gulf of Mexico. Three activities anticipated to have a particular impact on these coastal resources are waste disposal, power plant siting, and deep water ports developments. The Texas Coastal Resources Management Program was initiated to design a system for protection and development of the State's coastal zone. Clearly, the many issues associated with use of coastal resources are of statewide importance and tied into matters of land use planning and management.

Inland water-related resources are of particular significance in the matter of water availability. The eastern portion of Texas has a plentiful supply of water and is quite urbanized; whereas, the western part is relatively arid and predominantly rural. Because urban areas need water to service increasing demands, the purity and abundance of water resources are critical factors in determining the geographic location of urban growth. Accordingly, a program of land resource management must work hand in hand with those programs and agencies dealing with water quality and quantity.

Among other State activities which relate to the use of land are the outdoor recreation plan, the transportation planning program, and the statewide industrial development plan. While these three programs are not necessarily compatible at a given location, they each form important components of the total development of the State and must be given major consideration in any land resource management program for Texas.

In addition to those problems which are resource oriented, Texas currently lacks enabling legislation for land use control at the local level. Unincorporated areas face difficult land use problems because counties lack the authority to implement a program of land use planning and management. Thus, if a state land resource management program is undertaken, one of the key provisions must be to allow for extensive participation at the local levels of government. Not only should all levels of government participate, but they must work to achieve the highest level of cooperation and coordination among contiguous and overlapping levels of government.

Any state land resource management program must be designed to meet the best interests of all citizens of the state. In order to continually improve the quality of life for all, a program must strike a balance between continued growth and economic development on the one hand, and environmental protection and improvement of environmental quality on the other. The philosophy of land exploitation must be replaced by a recognition of land as a finite resource to be efficiently and effectively managed to satisfy long-term needs, as well as short-run gains.

#### **Approaches to Land Resource Management:**

Once land use problems are recognized, the next task is to develop a program which is specifically designed to resolve them. Since 1961, more than twenty states have enacted land use management programs. A review of these programs demonstrates that the states have approached this task in a variety of ways. As indicated by the Council of State Governments in their report titled "The States' Role in Land Resource Management."

*The need and the degree of state involvement in land resource management matters varies considerably from state to state, as does the cultural heritage and constitutional authority of the states . . . . Because no state has the same degree of need and type of need as its neighbor, no proven way [of land use management] presently exists which is applicable to all states.*

In one instance, a state has enacted a law authorizing the governor to prepare land use plans and to enforce zoning in all areas not subject to local regulation. This would be difficult to effectuate in Texas from a practical political point of view. In addition, this type of action fails to address the very basic issue of the need for regulating areas of critical state concern and developments of greater than local impact.

Some states have adopted the approach of providing specific regional entities with some degree of land resource management authority. The type and extent of authority is different for each entity, ranging from land use planning to regulation of development. Although each of these actions is important in its own right, they are not considered adequate in meeting the needs in matters of land resource management which pertain to the state as a whole.

Another approach to land use management is for a state to focus its effort on a single "activity" of statewide concern. For instance, one state has provided authority for a commission to override local zoning in those instances where the local ordinance would be restrictive to proposed major development projects. Another state has enacted a law authorizing a state zoning appeals board to overrule local exclusionary zoning practices if local action is deemed to be counter to a statewide policy of facilitating dispersion of low income housing.

Quite a number of states have approached land resource management by enacting legislation relating to critical "areas" of environmental concern. In these instances, the critical area is unique in that the authorization covers only a specific geographic area of the state or it singles out a specific type of environmental concern. Like many of the other actions already mentioned, these are progressive and innovative steps, but by concentrating on a specific area or a single type of concern they run the risk of forcing undesirable development upon those areas which are unprotected by state law or ineffectively managed by local government.

Although most of the state land resource management programs which have been enacted to date are incremental in nature, some states have authorized programs which are quite comprehensive in scope and require extensive intergovernmental involvement. One approach, which would be classified as full-scale state zoning, is couched in general terms which declare that "the elements of land, air and sea are resources to be managed for the welfare of present and future generations; and that when short-term interests of a few conflict with long-term interests of the majority, the long range interests prevail."

Some approaches lead to relatively little involvement in the administration of the acts below the state government level; whereas others depend considerably on extensive intergovernmental involvement. The progressive and broadly-based Vermont Environmental Control Law authorizes an Environmental Board to act on all proposals

for major site development in accordance with a state land use plan; but in order to accomplish this objective, considerable reliance is placed on regional entities.

The innovative act passed by the Florida Legislature in 1972 is both comprehensive and flexible. Emphasis is placed on critical areas and developments of regional impact. Areas of critical state concern can be created at the behest of the governor and the cabinet and may include (1) environmental, historical, natural, or archeological resources of regional or statewide significance; (2) an existing or proposed major public facility or public investment; or (3) a proposed area of major development potential. In general terms, developments of regional impact are those which have an impact upon more than one county. The Florida approach to land resource management is an adaptation of the approach developed by the American Law Institute. It is also very similar in language to the major land use policy bills considered by the 92nd Congress.

This is not an attempt to list all the approaches being used by each of the states which have enacted major land resource management legislation within the past few years, but rather the intent has been to emphasize that different land use problems may elicit different responses by state governments. As states continue to assume a greater role in land resource management, they will likely continue to experiment with a variety of approaches, some of which will be adaptable to a particular situation within only one state and some of which might be acceptable to a large number of other states. The trend, however, is toward the development of state land resource management programs which are oriented to the overall concerns of the state and based on involvement by all levels of government.

#### **Consensus Agreements:**

A number of alternative approaches have been identified which focus on land use issues at the state level. One element is common throughout the various approaches—land resources must be treated at a statewide or regional scale in order to resolve issues which are of more than local significance, even though in most instances participation at the local level is a key element. Thus, any statewide land resource management program, which is proposed or adopted, is likely to contain certain elements.

Although representing diverse public and private interests, Conference participants reached a number of consensus agreements relative to land resource management needs, principles, and actions. They provide a substantive framework for developing an approach to land resource management consistent with needs at the state level. Specific principles and objectives which were identified and adopted in the Texas Conference are set forth in the following general guidelines:

- *Recognize a legitimate and emerging new role for state government and regional entities in land resource management.*
- *Ensure that no element of a state land resource management program is unduly restrictive of private rights or constitutes a taking of property or rights without just compensation.*



- *Strengthen and improve existing mechanisms which have already proven effective.*
- *Acknowledge continuing role of local governments in land use planning and management and propose specific enabling legislation to strengthen this role.*
- *Stress an equitable intergovernmental system of land resource management, especially through intra-governmental and inter-governmental coordination of planning activities.*
- *Provide for adequate consideration of economic and social problems, as well as environmental problems.*
- *Improve and coordinate the collection and utilization of data and information.*
- *Provide means of enhancing public awareness of land management needs, and of increasing opportunities for processes related to a land resource management program.*
- *Accommodate the expected requirements of pending federal land use policy legislation.*

In setting forth the above statements, the participants of the Texas Conference recognized that a system of land resource management is not merely a program of land control, of preventing abuses, or of protecting and preserving critical areas. Rather, it serves as a guide for the State in managing its land resources and in achieving goals and objectives which are adopted for future growth and development.

#### **A Suggested Approach for Texas:**

In order to meet the needs of Texas in developing a statewide land resource management program, the consensus agreements were used as a guide in formulating recommendations for a proposed system. Whereas the consensus agreements deal with the nature of a state land use planning and management program in general, the suggested approach for Texas features specific recommendations from the state level down to the local level of government.

### **STATE LEGISLATIVE RESPONSIBILITIES**

The Texas Legislature should consider and enact legislation which (a) meets immediate land resource management problems; (b) strengthens interagency and interfunctional coordination for land resource management planning and administration; and (c) permits the establishment of a broadly representative entity for guiding the development of a state land resource management program.

## STATE EXECUTIVE RESPONSIBILITIES

The Governor should (a) make appointments to a state land resource management entity, with legislative confirmation; (b) guide the policy formulation and planning processes of a land resource management program; (c) provide staff support and participation in interagency planning and coordination; and (d) recommend needed enabling legislation.

The Interagency Council on Natural Resources and the Environment should (a) provide advisory assistance to a state land resource management program entity; (b) provide data and other supportive assistance to the entity; (c) continue to provide the coordination and cooperation which is needed to ensure an effective and integrated interfunctional planning process; and (d) participate in evaluating any proposed policy or planning recommendations on land resource management.

## REGIONAL ROLE

Regional entities should (a) provide service and information inputs to a state land resource management program; (b) participate in establishing criteria and guidelines for identifying and designating areas and developments of critical regional concern; (c) prepare regional land use plans; (d) provide assistance in establishing effective local planning activities; and (e) establish mechanisms for public participation in a land resource management program.

## LOCAL ROLE

Local governments should (a) provide the major share of responsibility for a land resource management program; (b) assimilate and use new land resource management capabilities as provided; (c) make more effective use of available authorization for inter-local and inter-governmental activities; (d) provide strong local leadership and input to regional aspects of a land resource management program; and (e) ensure adequate protection of private rights and interests.

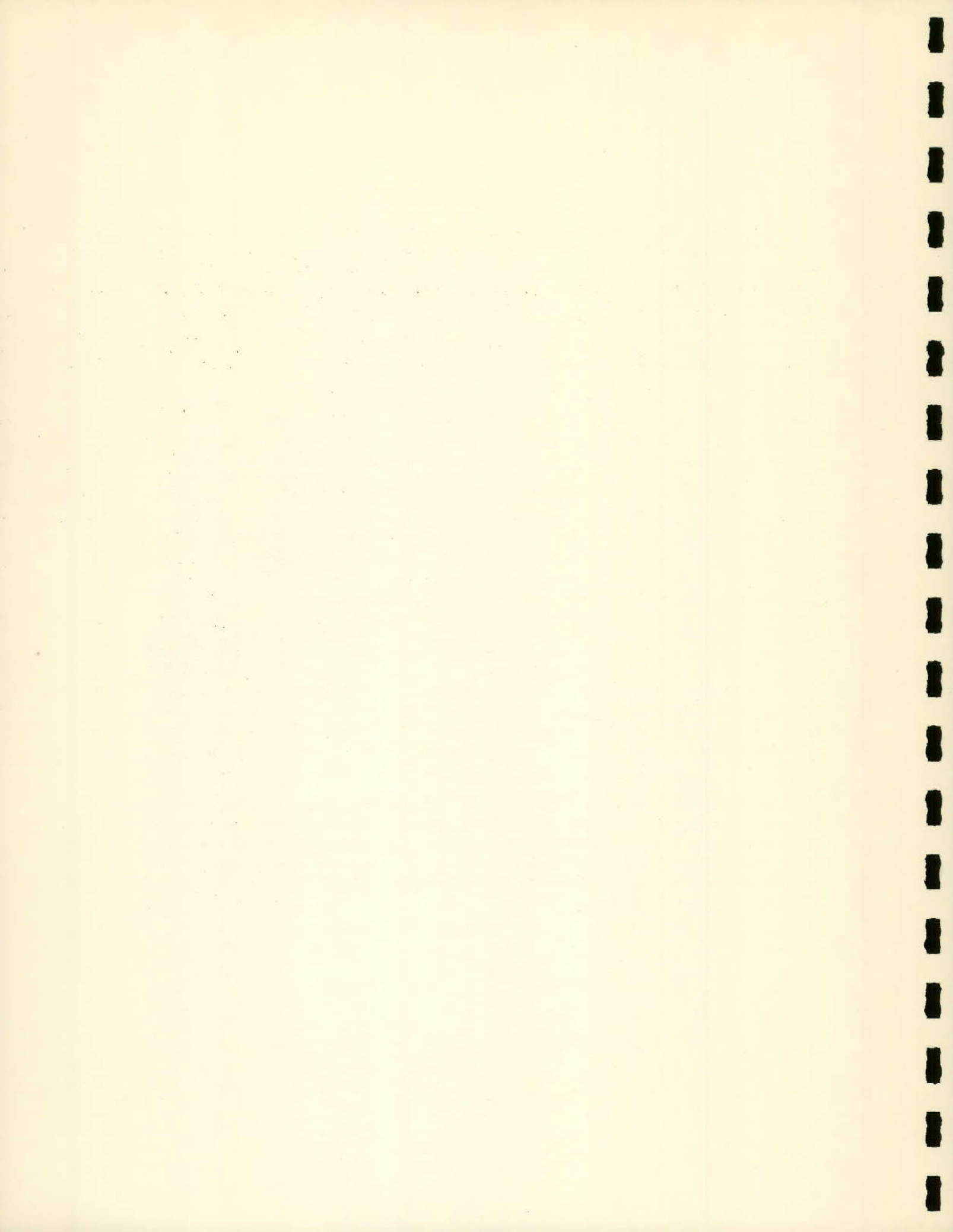
## SUMMARY

The role of the states in land resource management is a topic which is receiving considerable national attention. Since 1961, when the first notable state action occurred, about a score of states have enacted a variety of approaches, ranging from a focus on specific issues of land use to programs which are extremely broad in scope. Most of these actions have occurred within the past three years. Concurrent with this growing state interest has been the introduction of a number of bills before Congress which speak to the need for a national policy on land use and an increased role for state governments in land resource planning and management.

The Texas Conference was convened for the purpose of exploring the range of land planning and management alternatives which were open to the State. Participants reached agreement on a policy statement and recommend a general approach to land resource management for the state. The policy statement was directed to ensuring a quality of life for the citizens of the state by urging the adoption of a land resource management program which involves the state in land use matters of more than local concern, yet places the greater role for implementing the program in the hands of local government. The recommended approach is similar to that proposed in the American Law Institute's Land Development Code and to the Florida program, which is an adaptation of the Code.

Additional products of the Texas Conference include the understanding that it is essential for states to involve both public and private interests in early discussions on the subject of the state's role in land resource management. The conference also disclosed that it is important to reach an early understanding that a program must facilitate good development, as well as control detrimental development. In the same sense, it is important to realize that a land resource management program relates as much to social and economic matters as it does to environmental matters. Finally, emphasis was placed on the necessity of recognizing that most programs should rely heavily on intergovernmental involvement, with as many responsibilities as possible remaining at the local level.

The Conference succeeded in providing a direction for future action in Texas. But it was only one early step among the many which must be taken before Texas implements the recommended approach. This Conference could prove to have considerable impact upon the future of Texas, but of equal importance is that the information generated by the Conference may provide other states with the opportunity to better review their own roles in land resource management.



APPENDIX 1

A TEXAS CONFERENCE ON LAND RESOURCE MANAGEMENT

A Summary of  
Findings and Recommendations

Sponsored by

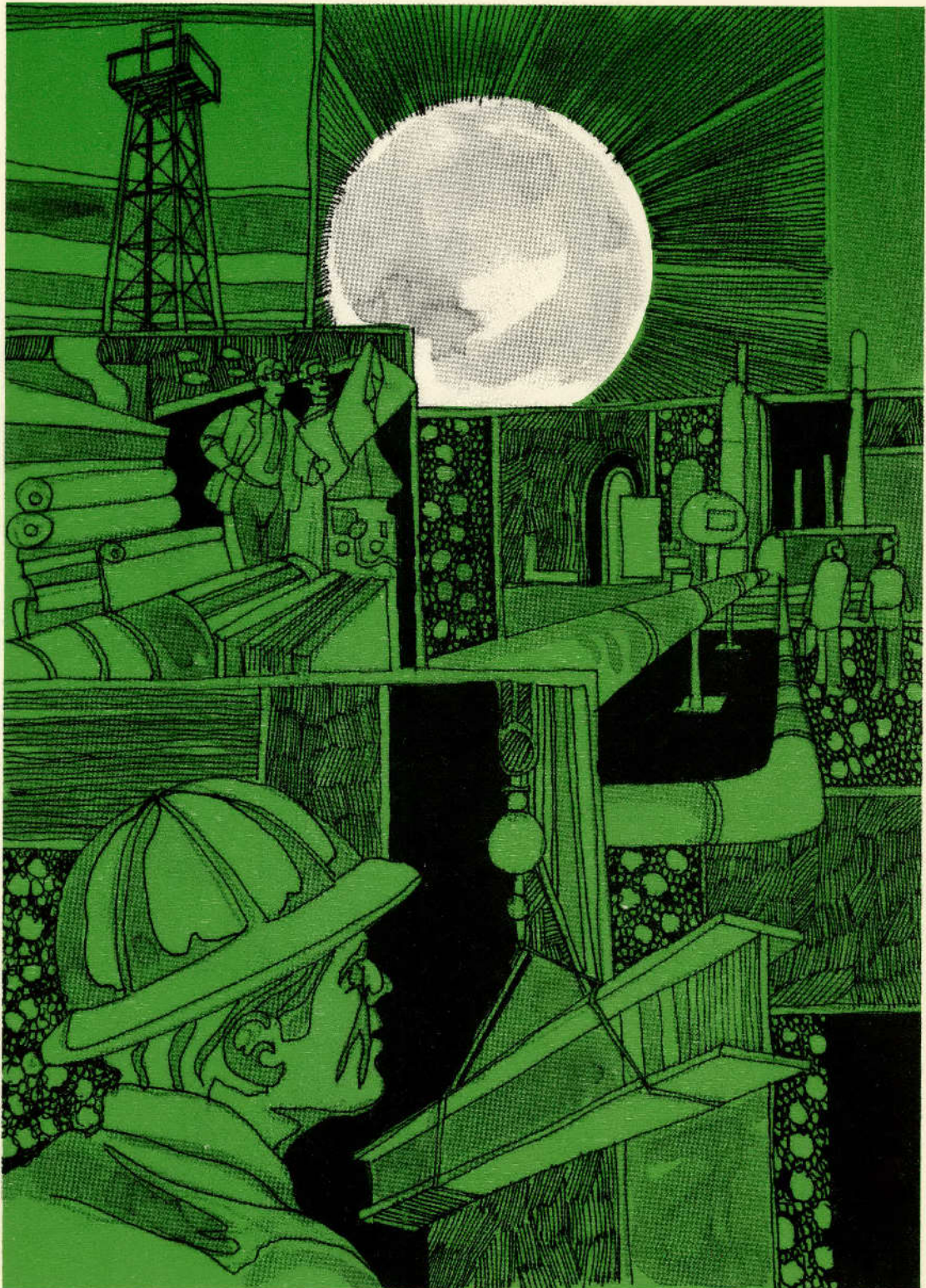
Office of the Governor, Division of Planning Coordination  
State of Texas

and

The Council of State Planning Agencies  
Council of State Governments

at

San Antonio, Texas  
Hilton Palacio del Rio Hotel  
August 21-22, 1972



## TEXAS CONFERENCE ON LAND RESOURCE MANAGEMENT

*Palacio del Rio, San Antonio*

*August 21-22, 1972*

A preliminary review draft of this report was circulated during September for comments and confirmation of contents. Responses from participants and observers who attended the exploratory conference have been incorporated in this revised summary of the findings and recommendations developed by that Conference. The Conference resulted in general agreement on what the participants considered to be a feasible approach to an effective system of land resource management for the State of Texas. The Conference also treated a number of issues which other states might consider when designing their own land resource management efforts. Thus, the objectives of the co-sponsors, the Governor's Office of the State of Texas and the Council of State Planning Agencies, were attained.

In reaching a general understanding on an approach to land resource management for Texas, the conferees demonstrated that diverse public and private interests can be brought together in the early stages of discussions on this issue and produce positive results. The open exchange of ideas and airing of concepts about land resource management among varied interests (representing the private sector and all levels of the public sector) resulted in the realization that (1) an effective land resource management program will require coordination between all levels of government and between many agencies within any single level of government; (2) local governments should continue to serve as the primary implementors of the program; (3) the program should relate to facilitating the positive aspects of growth and development as much as it does to controlling the negative aspects of unguided and uncontrolled growth and development; and (4) it should consider a reasonable balance between the economic, environmental and social interests of the citizens of a state. The Conference has given rise to a unique opportunity that should be seized upon to develop a greater understanding about the need for more effective land resource management.

In more specific terms, the results of the Conference were expressed in the following format:

- A. A position statement on a land resource management system for Texas.
- B. A set of recommendations and principles to guide the development of a state land management program.
- C. A set of suggested roles and responsibilities for each level of governmental participation in a Texas land resource management program.

The specific wording of each of the elements in the above format is as follows:

A. The Adopted Position Statement:

The proposed Land Resource Management Program for Texas is intended to put the State Government in a position to exercise the necessary degree of guidance and control over the growth and proper development of the State, in order to improve the quality of life of its citizens while at the same time preserving the processes of local governments and protecting the rights of private land owners. The role of State Government is to be focused on those decisions pertaining to land and related resource uses which have substantial impact beyond the boundaries of those local governments in which the resource or land use is located. The system is to rely upon the designation of areas and types of development of critical State concern, and the establishment of principles, standards and criteria to guide the use of those areas and types of development.

The system of land resource management is not merely a program of land control, of preventing abuses or protecting and preserving critical areas. Rather, it is a guide to the State in the management of land and related resources directed at achieving the goals and objectives that the State adopts for its future growth and development. The system must provide an acceptable balance between the protection and preservation of critical environmental resources and at the same time provide for the wise use and development necessary to be a continued quality of life to its expanding population.

B. Recommendations and Principles to Guide the Development of a State Land Resource Management Program:

1. There is a legitimate and emerging new role for state and regional governments in any effective system of land resource management. These roles should complement, support and strengthen the existing local role in land management in order to continue a strong local self-determination. The recommended structure and scope of state and regional roles should:
  - a. Build upon the basic features of the proposed American Law Institute (ALI) Model Land Development Code.
  - b. Utilize those elements of the adaptation of the Code, as reflected in the Florida approach to critical area management, as a source of further guidance in developing a Texas Land Resource Management Program.
  - c. Existing State and regional agencies will have significant roles in any land resource management program. Effective use will be made of existing coordinating mechanisms within State Government and at the regional level. As a land resource management program is implemented and refined, it may become necessary to initiate some new mechanisms to achieve the most effective program results.



2. Acknowledge the continuing need and justification for the existing local role in land use planning and management, and provide the needed incentives, means and authorization for expanding and improving local capabilities.
3. Propose specific enabling legislation to provide local governments with authority and means for exercising effective land resource management programs. Such proposed powers and programs should be consistent with the provisions of any adopted State land management program.
4. Encourage the increased utilization of intergovernmental agreements, understandings and contracts in the provision of efficient and effective local land resource management programs.
5. Ensure that nothing in the proposed State Land Resource Management Program can be construed as authorizing any governmental agency to adopt rules, regulations or orders which are unduly restrictive of private rights or constitute a taking of property or rights without just compensation.
6. Take into consideration existing land uses and patterns, private property rights and the well-being of the general public, and build upon already existing institutions, programs and capabilities of each level of government in an effort to strengthen and improve those mechanisms which have already proven effective.
7. Define mutually acceptable fiscal and administrative relationships between State, federal, regional and local governments; and between each level of government and the private sector.
8. Improve both intra- and inter-governmental cooperation and coordination in functional planning activities in order to facilitate the establishment and implementation of a Land Resource Management Program.
9. Provide for adequate participation and consideration of economic and social problems and programs in land use policy and planning processes.
10. Coordinate and improve the collection and utilization of data and information needed in support of all phases of establishing and implementing a Land Resource Management Program.
11. Conduct and assist in needed research related to improved decision-making capabilities for land resource management.
12. Provide and facilitate means of general public participation, including adequate opportunities for private property owners, in any decision-making process related to the Land Resource Management Program.

13. Develop a system of information dissemination and education aimed at better public understanding of the purposes, benefits and mechanisms of a Land Resource Management Program.
  14. Maintain some degree of flexibility in the early stages in the development of a program in order to accommodate the expected requirements of pending federal land use policy legislation.
- C. Suggested Roles and Responsibilities for Each Level of Governmental Participation in a Texas Land Resource Management Program:
1. State Level Roles and Responsibilities:
    - a. Legislative
      - (1) Consider legislation which meets immediate needs and concerns, such as improved local regulation of development in unincorporated areas.
      - (2) Consider additional legislation designed to strengthen interagency and interfunctional coordination as related to land resource management planning and administration.
      - (3) Consider legislation which states the objectives and general policies for a land resource management program and which requires and facilitates the collection of information and the use of existing State, regional and local planning efforts relating to land resource management.
      - (4) Consider legislation which would permit the establishment of a broadly representative entity for guiding the development of a State Land Resource Management Program. The necessary funding for such an entity would be part of this legislation, and provisions should be included to ensure the entity's responsiveness to the electorate.
    - b. Executive
      - (1) Make appointments to the proposed State Land Resource Management entity, with legislative confirmation.
      - (2) Exercise the Governor's responsibility as the State's Chief Planning Officer to coordinate and guide the policy formulation and planning processes of a Land Resource Management Program.
      - (3) Continue to provide staff support and participation in interagency planning and coordination.
      - (4) Recommend needed enabling legislation.

c. State Interagency Planning Councils (presently in operation are Interagency Councils for Natural Resources and the Environment; Transportation; Human Resources; and Health) and Other Appropriate State Agencies

- (1) Provide advisory assistance to the proposed State Land Resource Management Program entity.
- (2) Provide data and other supportive assistance to the entity. The Natural Resources Information System (NRIS) being developed by the State's Interagency Council on Natural Resources and the Environment is an example of such assistance.
- (3) Provide the necessary coordination and cooperation in *interagency planning* needed to ensure an effective and integrated interfunctional planning process.
- (4) Participate in evaluating any proposed policy or planning recommendations on land resource management.

d. A Texas Land Resource Management Entity

- (1) Activities supportive to establishing land resource planning or policy formulating processes.
  - (a) Define, evaluate and rank alternative futures and goals of the State of significance to land use decisions.
  - (b) Examine and evaluate the likely economic, social and environmental consequences of attaining the alternative goals identified.
  - (c) Examine and evaluate the potential costs of alternative approaches to conducting a land resource management planning program aimed at achieving adopted goals.
- (2) Actual planning and administrative activities.
  - (a) Guide the development of standards and criteria for identifying and designating areas and developments of critical State concern, in the context of a Statewide planning process.
  - (b) Provide for regional procedures and inputs in identifying and designating areas and developments of critical regional concern.
  - (c) Provide the necessary guidelines for administration and regulation of designated critical areas and developments at each level of government participation.

- (d) Encourage local governments to adopt and administer effective land use and development programs.
- (e) Provide for regional and State review and evaluation of local planning and regulatory programs with relation to designated critical areas and developments and make provisions for State intervention in these areas in cases of local default and before the development activities are initiated.
- (f) Ensure that adequate protection of private rights and interests are provided through equitable and readily accessible appeals procedures at each level of government.
- (g) Provide for needed public information and participation in the planning and administration of a State Land Resource Management Program through hearings, reports and other media.

## 2. Regional Roles

- a. Provide the services, information and participation in a State Land Resource Management Program as delegated by legislative, executive or other directives.
- b. Participate in establishing criteria and guidelines for identifying and designating areas and developments of critical regional concern.
- c. Prepare regional development plans which coordinate and incorporate local plans and programs.
- d. Provide needed advisory assistance in policy considerations and in establishing effective local planning activities.
- e. Establish mechanisms for regional hearings, public participation, local appeals procedures and other processes which support good public information, understanding and acceptance of a Land Resource Management Program.

## 3. Local Roles – Cities, Counties and Other Local Governments such as Soil and Water Conservation Districts, School Districts, Water Districts, Navigation Districts, etc. Special purpose local governments would assist and complement the cities and counties in their defined roles.

- a. Continue to provide the major share of planning, administration and application of land resource management programs in order to ensure a high level of local self-determination.
- b. Assimilate and use new land resource management capabilities and mechanisms as provided by enabling legislation.

- c. Make more effective use of available authorization for interlocal and intergovernmental cooperation, agreements and contracts.
- d. Provide strong local leadership and input to regional plans, policies and other aspects of a Land Resource Management Program.
- e. Improve local appeals procedures to ensure adequate protection of private rights and interests.



## The American Law Institute Model Development Code

In process for over ten years, the ALI Model Land Development Code is to be not only a modern replacement for the Standard State Zoning Enabling Act and Standard City Planning Enabling Act, which form the basis for delegation of powers to local governments by most states, but incorporates a much broader range of powers and responsibilities at all levels of government. A summary description of the twelve major articles of the code follows:

**Article 1. General Provisions**—contains the basic grant of power to those classes of local government selected by the enacting state. The meaning of “development,” the most significant term in the Code, is detailed here to define and delineate the scope and form of powers granted to local government.

**Article 2. Power to Regulate Development**—details the basic grant of powers to local governments for regulating land development by public or private interests, whether for single parcels of land, or for large areas. Also provides the procedures for local agencies to consider applications for development.

**Article 3. Development Plans and Powers of Planning Governments**—provides guidelines for local planning and grants additional powers to those governments which have adopted official land development plans. Planning guidelines are centered primarily on physical development objectives. Reservation of lands for public use is an example of additional powers for “planning governments.”

**Article 4. Acquisition and Disposition of Land by Governmental Agencies**—concerns use of powers to acquire and dispose of lands by eminent domain, purchase, sale, etc.

**Article 5. Termination of Existing Land Use**—prescribes the regulatory mechanisms available to local governments for influencing preexisting uses and structures.

**Article 6. Compensation for Development Regulation**—establishes standards and principles to which public authority must conform in regulating land-use, with provision for compensation or relinquishment of control where loss of value arises from regulation.

**Article 7. State Land Development Regulation**—reserves for the state certain powers of land development regulation; requires local governments to deny development permits unless state or regional standards are met; establishes state districts of critical concern; specifies controls for large-scale developments; creates Official Map powers; and provides for a state Land Adjudicatory Board.

**Article 8. State Land Development Planning**—requires organization of state and regional planning agencies and advisory committees; adopts general powers dealing with intervention in judicial and administrative proceedings, hearings,

and appointments; provides criteria for applications for state or federal grants or loans; details the procedures and content of state land development plans; and permits the creation of a Long Range Planning Institute.

**Article 9. Judicial Review**—brings to bear the experience of judicial review under state administrative procedure acts on litigations involving governmental land development regulation.

**Article 10. Enforcement**—still in process, this Article will prescribe the enforcement measures available to each level of governmental operations in securing compliance with land development regulations.

**Article 11. Public Records of Land Development Plans and Controls**—requires the integration of publicly imposed restrictions on land-use into the public land record system.

**Article 12. Financial Provisions**—to standardize process of seeking and qualifying for federal or state grants-in-aid for local developments.

The model code, as enabling legislation, contains broad provisions of general applicability for most states. Not all states and local governments will choose to enact all of its provisions. The model permits flexibility and deviation to accommodate state and local needs and conditions. At the same time, it provides a high degree of coordination and uniformity in policy, planning and management at the respective governmental levels, which is desirable for an effective unified system.

The model code's primary reliance on physical development planning and management, with only general reference to social, environmental and other development objectives is a feature needing further consideration.



### THE FLORIDA APPROACH TO LAND RESOURCE MANAGEMENT\*

The Florida approach to Land Resource Management, which is patterned after Article 7 of the American Law Institute's Model Development Code, puts state government in a position to exercise a limited degree of control over growth and development of the state, while preserving the processes of local government and rights of private land owners. The role of the state is focused on those land use decisions which would have a substantial impact upon more than one locality.

Under this approach, the state (the Governor and the Cabinet) is empowered to designate specific geographical areas as "*areas of critical state concern*," and to establish guidelines for the development of those areas. Areas of critical state concern can include (1) environmental, historical, natural or archeological resources of regional or statewide importance; (2) an existing or proposed major public facility or major public investment; or (3) a proposed area of major development potential.

After an area has been designated as an area of critical state concern, the local government (or governments) having jurisdiction is given the opportunity to write regulations to implement the established state principles and administer the regulations. If the local government fails to conform to the principles, the state is then empowered to act in default of local action.

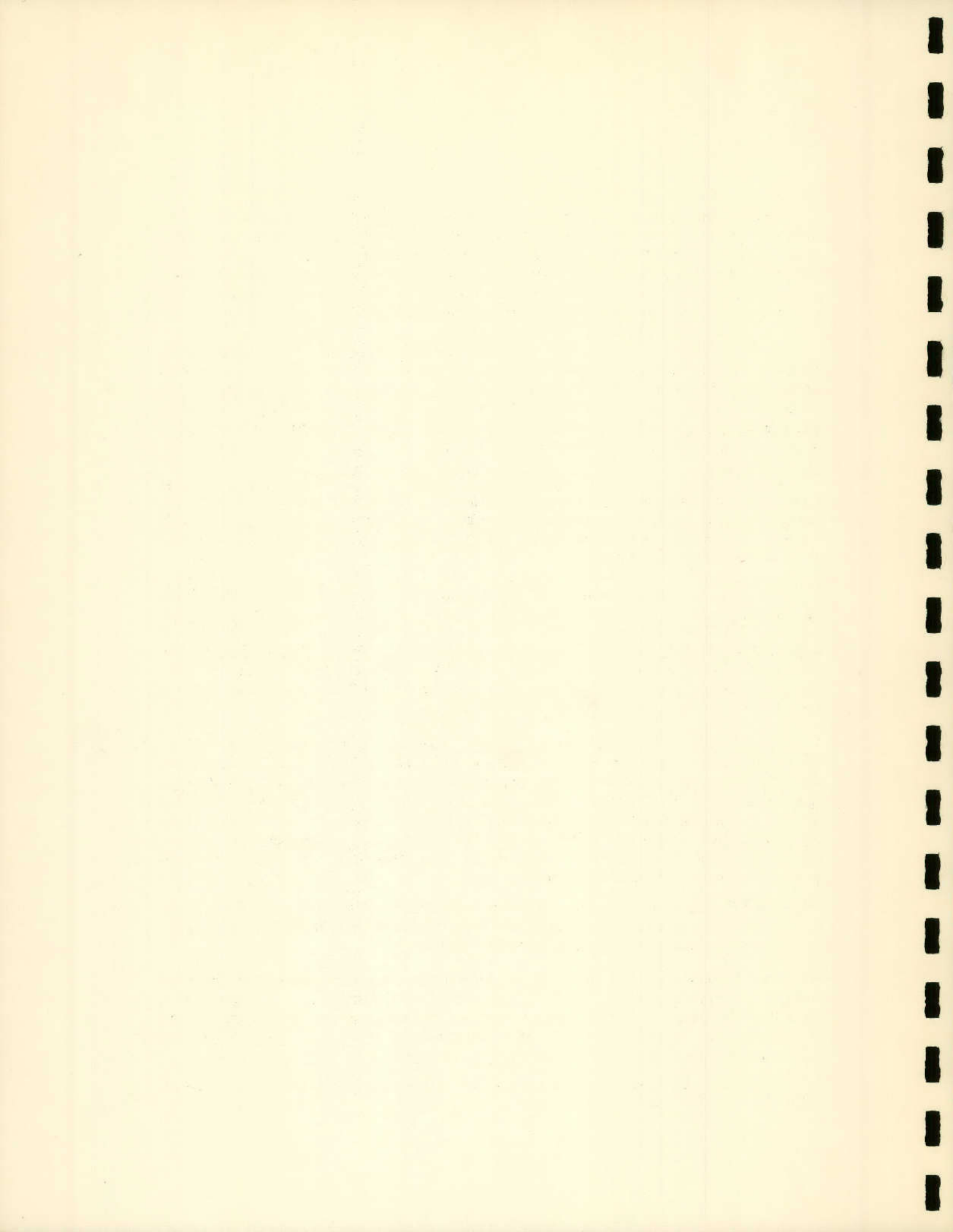
The state is also empowered to adopt guidelines and standards for determining "*developments of regional impact*." In general, developments of regional impact are those which would have a substantial effect upon more than one locality. When permits are requested for developments which have been identified as having regional impact, the local government must consider (1) the conformity of the proposed project to a state land development plan and (2) its regional effect as analyzed by the regional planning agency in the area in which the project is located.

In Florida, the Division of State Planning is responsible for making recommendations regarding areas of critical state concern and the principles for determining developments of regional impact. Local governments and regional planning agencies are provided the opportunity to have an input to these recommendations. The Division is also responsible for (1) approving local land development regulations in areas of critical state concern, (2) assisting local governments in the preparation of their regulations, and (3) writing the development regulations in the event the local government fails to adopt adequate regulations.

There is also established a land and water adjudicatory commission, to hear and rule on administrative appeals from development orders by local governments relative to areas of critical state concern and developments of regional impact.

The Florida approach does not diminish private property rights, for the same constitutional protections which apply when local governments enforce land regulations, apply to the regulations under the act. Further, property rights acquired under local regulations prior to the designation of an area as one of critical state concern or a development of regional impact are expressly protected.

\*This review focuses on some of the major aspects of the Florida Environmental Land and Water Management Act of 1972; it does not cover all sections of the Act.



## APPENDIX 2

### STATE AGENCY REPRESENTATIVES ATTENDING THE TEXAS CONFERENCE ON LAND RESOURCE MANAGEMENT

Mr. Harry Burleigh	Executive Director, Texas Water Development Board
Mr. Bob Armstrong	Commissioner, General Land Office
Mr. Garner Jones	Director of Planning and Research, Texas Water Quality Board
Mr. Ken Ports, PE	Chief, Planning Coordination, Air Pollution Control Services, Texas Air Control Board
Mr. Ed Nichols	Assistant Commissioner, Texas Highway Department
Mr. Marc Yancey	Administrative Engineer, Texas Highway Department
Mr. Frank Youngblood	Senior Legal Examiner, Texas Railroad Commission
Mr. Harvey Davis	Executive Director, Texas Soil and Water Conservation Board
Mr. Mason Cloud	Assistant Director, Texas Forest Service
Dr. William G. Adkins	Research Economist, Texas Transportation Institute Texas A&M University
Dr. Bill Fisher	Director, Bureau of Economic Geology, University of Texas at Austin
Mr. Ross Shipman	Research Program Manager, Division of Natural Resources and Environment, University of Texas at Austin
Mr. Frank Call	Director of Planning, Texas Industrial Commission
Dr. Alfred D'Arezzo	Environmental Sciences Analyst, Texas Water Rights Commission

**OBSERVERS IN ATTENDANCE AT THE  
TEXAS CONFERENCE ON LAND RESOURCE MANAGEMENT**

Alvin C. Askew	Texas Railroad Commission
P. T. Bankston	Mississippi Governor's Office, Jackson
Auzie Blevins	Texas Parks & Wildlife Department
Alvin Burger	Texas Research League
Robert D. Clark	The University of Texas
Dan Coffman	Environmental Consultants, Dallas
Russell Cummings	Texas House Interim Committee on Coastal & Marine Resources, Houston
Andrew A. Dzurik	Florida State University, Tallahassee
Duncan Ellison	Water, Inc., Lubbock
Forrest A. Harding	Texas House of Representatives, San Angelo
Harry Hubbard	Texas AFL-CIO
Dana Larson	Humble Oil, Houston
Ray Lemmon	Texas House of Representatives, Houston
Hans A. Luter	Corpus Christi
George Mah	Middle Rio Grande Development Council, Del Rio
Mike McKann	Texas Water Quality Board
John W. Millican	Texas Soil and Water Conservation Board, Temple
John Miloy	Texas A&M University, College Station
Tony Natale	Environmental Consultants, Dallas
R. E. Patterson	Texas Department of Agriculture
Paul A. Seals	Texas Water Quality Board
Luther B. Simmons	Texas Water Development Board

John W. Sparbel	Nevada State Planning Board, Reno
Jack N. Thompson	Corps of Engineers, Fort Worth
Ron Thuma	Texas Parks & Wildlife Department
Gary D. Vest	Lackland Air Force Base, San Antonio
Bill Waddle	Texas Water Conservation Association
James W. Williams, Jr.	Texas Research League
Jean Williams	Texas Water Development Board

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A number of other observers were in attendance at individual sessions. Several also failed to register.

