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# LAND USE POLICY AND PLANNING ASSISTANCE ACT

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## HEARINGS

BEFORE THE

### COMMITTEE ON

### INTERIOR AND INSULAR AFFAIRS

### UNITED STATES SENATE

20510

NINETY-THIRD CONGRESS

ON

### S. 268

A BILL TO ESTABLISH A NATIONAL LAND USE POLICY, TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO MAKE GRANTS TO ASSIST THE STATES TO DEVELOP AND IMPLEMENT STATE LAND USE PROGRAMS, TO COORDINATE FEDERAL PROGRAMS AND POLICIES WHICH HAVE A LAND USE IMPACT, TO COORDINATE PLANNING AND MANAGEMENT OF FEDERAL LANDS AND PLANNING AND MANAGEMENT OF ADJACENT NON-FEDERAL LANDS, AND TO ESTABLISH AN OFFICE OF LAND USE POLICY ADMINISTRATION IN THE DEPARTMENT OF THE INTERIOR, AND FOR OTHER PURPOSES

PHOENIX, ARIZ., APRIL 2, 1973  
TUCSON, ARIZ., APRIL 3, 1973

### PART 4



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# LAND USE POLICY AND PLANNING ASSISTANCE ACT

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## HEARINGS BEFORE THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS UNITED STATES SENATE

NINETY-THIRD CONGRESS

FIRST SESSION

ON

**S. 268**

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**PART 4**



Printed for the use of the  
Committee on Interior and Insular Affairs

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1973

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# LAND USE POLICY AND PLANNING ASSISTANCE ACT

MONDAY, APRIL 2, 1973

U.S. SENATE,  
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,  
*Phoenix, Ariz.*

The committee met pursuant to notice, at 9:15 a.m., in the city council chambers, Phoenix, Ariz., the Honorable Floyd K. Haskell, presiding.

Present: Senators Haskell and Fannin.

Also present: Gerald Gereau, professional staff member, Laura L. Beaty, staff assistant; and Fred Craft, minority staff.

## OPENING STATEMENT OF HON. FLOYD K. HASKELL, A U.S. SENATOR FROM THE STATE OF COLORADO

Senator HASKELL. Ladies and gentlemen, we will commence the hearing on Senate bill 268, which is known as the Land Use Policy and Planning Assistance Act of 1973.

It is a tremendous pleasure for me to be here in the home State of my good friend, Senator Paul Fannin, to participate in this extremely important hearing on land use planning. Senator Fannin and I agree that our neighboring States, and I am from Colorado, are blessed with some of the most beautiful land in this great Nation, as well as an abundance of natural resources.

Only wise and careful planning can guarantee that Arizona and Colorado, as we know the two States today, will be enhanced and preserved for tomorrow's citizens. Certainly, no one is more concerned about the direction that land use planning takes than Senator Fannin. He is a cosponsor with Interior Committee Chairman Henry Jackson of Washington, of the bill to be discussed here today.

Senator Jackson has personally expressed to me his great pleasure that Senator Fannin has endorsed this legislation and is lending his active support to its passage.

I can personally say that Senator Fannin is one of the hardest working and most highly respected Senators in Washington. His solid record of achievement as a three-term Governor of your State, and his outstanding career in the U.S. Senate are sterling testimony to his awareness and concern for the land and its people. As a westerner and as the ranking Republican member of the Interior Committee, Senator Fannin has the knowledge, the interest, and the dedication to work with the States and with their political subdivisions to achieve the goals sought in this bill.

As a prelude to the formal opening of the hearing, I wish to thank Mayor John Driggs and the Phoenix City Council for making these magnificent facilities available for use of the Senate Interior Committee today.

I want to extend thanks to the staff of the municipal building for the work in advance preparations that went in getting the council chambers ready for the hearing.

We are honored that Gov. Jack Williams will be here a little later this morning, and I want to extend thanks to the Governor for the courtesies extended to the committee and for the fine citizens of Phoenix for their warm hospitality. The generous offers of assistance and the assistance of the Arizona Department of Public Safety are most appreciated.

Finally, I wish to thank the ladies and gentlemen of the media for being here to report these proceedings, and the representatives of the State and local government agencies and private organizations who have come here to testify.

Senator Fannin.

#### STATEMENT OF HON. PAUL FANNIN, A U.S. SENATOR FROM THE STATE OF ARIZONA

Senator FANNIN. Thank you, Mr. Chairman. We are honored to have you in our State, Senator Haskell. We, of course, count you as a great westerner and a fine leader in this field of activity. I do want my fellow Arizonians to know that Senator Haskell is, as he stated, from the great State of Colorado, the ski capital of the world, I think you classify it as that, and he happens to be a very fine skier along with many other accomplishments of the athletic field.

He is a graduate of Harvard Law School and has had a highly successful law career. He served as an Army officer in World War II, one of the first Americans. He served in the Colorado Legislature very successfully, assistant majority leader, he has many accomplishments to his record. He sponsored legislation for better control of growth of the great Denver area.

In addition to serving on the Interior and Insular Affairs Committee, he also serves on the Senate States Committee. He has been extremely helpful in the work on this legislation as on other legislation involved in the Interior and Insular Affairs Committee, and I have observed his regular attendance at meetings, his hard work, and dedication.

We are very pleased to have him as our guest in Arizona and I am sure he will enjoy his stay here. I am sorry he will not be able to stay longer, but circumstances prevent his being with us for both days of the hearing. But I join Senator Haskell in expressing thanks to Mayor Driggs and the city council and to the others responsible for making this fine facility available. Incidentally, Senator Haskell stated he has never seen a finer facility.

The bill that we are discussing today, Policy and Planning Assistance Act of 1973, is very important and it is very essential in the last 2 days of this hearing that we will have, from the standpoint of the Senate on this legislation, that we hear from people that have expertise in their fields.

We are very fortunate that we have so many outstanding leaders that will be with us today. Whether we know it or not, decisions on land use affect us all. Between now and the end of the century, the statisticians say, we will build as much again as we have built in

our entire history. We will build a second America, as it were, and much of that building will focus on our vast stretches of western land.

Every 10 years new homes and apartment houses, schools and hospitals, factories and offices, roads and railroads, shops and parking lots, gas stations and whatever, will cover some 5 million acres, an area the size of New Jersey. Current projections indicate that the land space between Phoenix and Tucson will close so that the geographic boundaries will blur and be as indistinguishable as those now between Phoenix and Scottsdale.

Our demands for goods and services are all interrelated with land use. There is a direct chain of economic consequences which has its beginning in the land. Land provides the opportunity for investment of private funds for the production of useful goods. When such investment is made, with the prospect of an adequate return, jobs are created. Jobs allow the creation of communities and family stability, and payrolls lead to taxes, businesses, and governments.

Much has recently been said about our energy crisis and the requirements of a growing population and expanding economy. To take a drastic illustration, the demand for electrical energy will double every 10 years and so will the amount of land needed for power sites and utility corridors.

Naturally, the issue of land use has increasingly captured the attention of Congress. During the 91st Congress, 120 bills concerning land use policy occupied the time of 12 committees. In the last session of the 92d Congress that number had risen to over 200 measures in 13 committees. I am aware of the same kind of preoccupation with this subject by the Arizona State Legislature and by the State legislatures from California to Florida.

Let me tell you that I am disturbed by the lack of solution to these many problems of land use, but let me equally announce that our Constitution reserves for the States all those powers not expressly enumerated for the Federal Government, and the Constitution does not grant land use planning exclusively to the Federal Government. The primary responsibility and authority for land use planning within a State is the prerogative of the State, and Washington must not be allowed to usurp the one last remaining vestige of State police power.

The U.S. Senate has come to Arizona to hear the voice of its citizens. We need your clear vision and recommendations. The Senate is, this is very month, considering two proposals and your participation will prove very helpful in this most difficult task.

I believe we can come to grips with the competing interests—with industry facing environment, with population facing diminished resources, if we will only understand the interactions of the environment and the economy, the economy and society, society and its quality. We are here to weave a solution out of this complexity, and we need your help. Thank you for coming.

Thank you, Mr. Chairman.

Senator HASKELL. Thank you, Senator Fannin.

We are fortunate today in having as our first witness the mayor of Phoenix, Mayor John Driggs.

Mayor DRIGGS. Thank you.

Senator HASKELL. Mr. Mayor, it is a great pleasure to have you with us.

Senator FANNIN. First of all, I want you to know the chairman and I both express our appreciation to you and the city council for making these quarters available. I also want to repeat, the chairman, Senator Haskell, has stated he has never seen finer quarters. I want you to know, Senator, we have a very outstanding mayor, a natural leader, who has been very active in the affairs of the league of cities and towns and the activities concerning the larger cities of our Nation. We respect Mayor Driggs for his activity in this field of endeavor and I know he has, as I know he will explain, been very concerned about land use problems.

Mr. Mayor, I am very pleased to also welcome you here this morning.

Mayor DRIGGS. Thank you very much.

Senator HASKELL. It will be a great pleasure to hear your comments on this bill. We are looking forward to it very much.

#### STATEMENT OF HON. JOHN D. DRIGGS, MAYOR OF THE CITY OF PHOENIX, ARIZ.

Mayor DRIGGS. Thank you very much, Senator Haskell and Senator Fannin. I am pleased to welcome the Senate Interior Committee to the city of Phoenix and to our city council chambers. I think it is very appropriate for you to hold hearings on Federal land use planning legislation in Phoenix and again tomorrow in Tucson. With the vast land still available in Arizona, I would imagine our State would be affected as much as any State by the proposed legislation.

The city of Phoenix supports Senate bill 268 which would establish a national land use policy and meet a number of other worthy objectives, including coordinated planning and management of Federal lands. This bill will help us initiate a State land use planning program, which I feel is of great importance. During my 3 years as mayor of Phoenix, I have often stated that our No. 1 problem is the need to plan for orderly growth.

Rational planning for the continued growth and development of Phoenix and the best use of our limited resources depend upon our ability to predict future needs and our capabilities for meeting these needs. This city is part of a rapidly growing metropolitan area whose problems transcend legal boundaries. We cannot completely control the origin and destination of our air, water, sewage, traffic, and increasing population. We must cooperate with other cities, and the State and Federal Governments, for we all have resources—money, land, regulatory power, and information—which must be shared. State land use planning is necessary to give us the larger framework into which our local and regional plans can be inserted. State and local planning should complement each other, allowing both levels to evaluate development proposals as part of a total picture of resource capabilities and competing demands, rather than on a piecemeal, short-term basis.

This bill provides for a statewide inventory of natural resource information, including an inventory of land usage and a means for retrieving this data. This will give all governments a better basis for making decisions and balancing the varying needs for preservation of the natural environment, social goals, and economics.

This same information will be very useful in the preparation of environmental impact statements. At present we are expected to prepare statements, including an analysis of the costs and benefits of alternatives, with inadequate information. This is frequently difficult to do as the data is not available and the total picture of future land use development beyond city limits is unknown. It must be equally difficult for anyone to evaluate these impact statements realistically in the absence of this information.

Recognizing the importance of long-range planning and the need for some measure of predictability, we have taken steps to plan our future. Last May, the city adopted a general plan showing proposed land use for 1990. However, our planning and regulatory powers are limited to the land within our own boundaries. Most of these powers come from our charter, not from State enabling legislation which only covers the power to zone. Hopefully, planning enabling legislation in Arizona will be passed this year.

In our 1990 plan, for example, we have designated much of our mountainous areas as public parks, but development pressures in these areas still continue, since we do not have the funds to purchase all of the lands now. The State land use plan should recognize these lands as areas of critical concern for scenic and recreational purposes. If State land planning had been started some years ago, our problems in acquiring and preserving Camelback Mountain and the Phoenix Mountains might not be as great and as costly as they are today.

In response to a request from the State land department to determine the city's future needs for State lands, we have requested the Maricop Association of Governments, our local council of governments, to study alternative urban growth forms for the valley. Now is the time to determine the most desirable patterns for future growth which will minimize pollution, traffic congestion, and taxes, and maximize open space, economic prosperity, and ease of movement; and choice of residential location, employment, and of life style, which we sometimes refer to as the quality of urban life.

As we interpret this bill, local governments will not surrender their power to zone or plan in areas of truly local concern. In whatever form this bill ultimately takes, the right of cities to retain control over local zoning decisions must remain inviolate. We will, however, cooperate with other local governments and the State in planning for areas of critical environmental concern, areas around major public facilities which induce development, and developments and land uses of regional benefit or significant impact.

From this sharing of information, decisionmaking, and regulatory power, should come a more predictable and rational use of our land for the benefit of all.

Until statewide land use planning is undertaken in every State, there will be no way to discover emerging conflicts among various levels of government and private interests, and no basis for the rational resolution of conflicts. For all these reasons, land use is a national problem that should be treated with a national policy. Thank you very much.

Senator HASKELL. Thank you, Mr. Mayor. I appreciate your thoughtful statement. I have no questions, but I would like to comment that the problems of your city, Phoenix, are really identical with the problems of the major city in my State, Denver, in that Denver

does not obviously have powers to plan for beyond its geographical limit, and yet there must be some way for coordinating and planning for the future.

I will ask Senator Fannin if he has any questions.

Senator FANNIN. Thank you, Mr. Chairman. I have only one question to ask Mayor Driggs.

Since we do have Indian lands in various areas close to Phoenix and, of course, close to other cities in the United States, do you feel that Indian land in the various States should be included in a National Land Use Planning bill?

Mayor DRIGGS. Yes, I think it is very important that they be included in a National Land Use Planning bill. I think that they—while they have some unique characteristics, being reserved for specific purposes, they nevertheless in this development must be considered as a part of the overall land planning in order for those lands to obtain the maximum use and maximum benefit for the owners.

Senator FANNIN. Well, thank you. I agree with you, that we do have a problem in some regards because of treaties. I feel it would be so essential to the Indian tribes to have protection of their lands, and I feel it would be very unfair to our Indian people if we do not include them.

Mayor DRIGGS. I am sure it will be of great benefit to the Indian tribes themselves.

Senator FANNIN. Some mention has been made of the need to preempt land for Federal legislation for siting of powerlines, pipelines, and deepwater ports. What would your feeling be about the Federal Government determining where such energy facilities should be sited?

Mayor DRIGGS. I feel it would not be proper to have a total Federal preemption in that area. I feel local areas must have the opportunity to have input into those decisions. I would not favor a total preemption.

Senator FANNIN. By total preemption, you feel it should be a coordinated effort?

Mayor DRIGGS. Right.

Senator HASKELL. Thank you for appearing. Again, let me say I wish we had in the Senate as good facilities as you have here.

Mayor DRIGGS. Thank you very much. Come any time.

Senator HASKELL. Now we are fortunate in having, as our next gentleman to testify, Senator James Mack.

#### **STATEMENT OF HON. JAMES MACK, A STATE SENATOR OF ARIZONA**

Senator MACK. Thank you, Mr. Chairman, Senator Fannin, and ladies and gentlemen. We certainly are happy to have you here and appreciate the input that you are allowing us to have on this legislation.

We here in Arizona fully support a Land Use Planning Program at the national level. More and more we are becoming aware that our land is a finite resource and only the wise management and use will preserve it for the generations to come. But having supported the concept behind S. 268, we in Arizona have serious reservations about some of the specifics contained in the bill. I would like to address three particular problem areas.

The first area, and perhaps the key to the success of the program, is financing. The bill calls for reduced funding to be shared among the

States and territories to finance the development and implementation of a State land use plan. The most Arizona could expect under the present financial structure is approximately \$1 million to \$2.5 million, which just isn't enough to help finance the 5-year program. Considering cost, States may not undertake such a program. The fact is the Federal funding offered is not enough to encourage States to develop State land use plans.

Senator Jackson's bill in the last Congress, S. 632, contained sanctions for those States who did not comply with the bill and develop a land use plan.

The present financing may require some form of sanction to force State compliance; but this leads right to my next area of concern with the bill.

The whole idea behind the bill is to get States to develop a State plan for the use of their lands. If that is the purpose, then States should and must play the primary role. However, in reading S. 268, I can't help but feel that the States are continually preempted by Federal agency review. Time and again, throughout the bill, the State program is reviewed by one Federal agency after another—from Agriculture, page 31, subsection (e), to the EPA, page 30, subsection (2). The State, however, has very little to say on Federal land use plans. As a matter of fact, Federal agencies who develop plans inconsistent with existing State plans need only publish the reasons for the inconsistencies and hold a public hearing on the program, page 39, subsection (6).

While this may seem to be nitpicking, I would like to point out that the relationship of Federal-State land planning is crucial in the Western States. [Arizona alone has 72 percent of its land owned or controlled by the Federal Government. How the Federal Government plans its lands in Arizona determines to a large degree how we must plan the remaining land.]

I would like to reflect a little further on this problem of State-Federal relations presented in S. 268. The States are left with very little leeway as to how they shall develop their plan. The bill calls for a planning agency with primary responsibility, and then goes further by requiring the Secretary of Interior, prior to making any grants, to assure that the planning agency be advised by an advisory council—

Which shall be composed of a representative number of chief elected officials of local governments in urban and nonurban areas. The Governor shall appoint a chairman from among the members. The term of service of each member shall be two years.

This certainly restricts the State in how they shall comply with the law. I believe serious consideration should be given to broadening the State prerogatives in how they shall develop their plan.

This brings me then to my final concern about S. 268. This third concern relates closely to the previously discussed point, My third and final concern is State representation on the national level. As the bill is presently written, the only State representation nationally is in an advisory capacity on the National Advisory Board on Land Use Policy.

I am very concerned that the Departments of Agriculture, Commerce, Defense, Health, Education, Housing, Transportation, Atomic Energy, and EPA all have voting membership and States are relegated to an advisory role.

If I may now sum up what I have stated with some specific recommendations?

One, I would like to see the National Advisory Board on Land Use Policy expanded to include four representatives of the States on a regional basis, each with a full vote.

Two, I would like to see the specific requirement for review by the EPA and HUD removed, or else a clear and definite procedure developed with the limitations and opportunities for State rebuttal. In addition, I would like to see some opportunity for State review of Federal programs which may have significant impact on the State. This review should include a possible rejection of the Federal plan pending arbitration.

Three, finally, I would like to see the funding increased to \$100 million annually with 90 percent Federal funding the first 2 years and two-thirds for the last 3 years, as it was in last year's S. 632.

Thank you for your time, and I would genuinely appreciate your consideration of these points for Arizona—and the good of the States.

That is the end of my prepared statement, but I would like to say that we really appreciate here in Arizona the input we have been able to have through Senator Fannin's office, and the support that we had through the NASA program when they cut back, the fact that Arizona has now received over some \$6 million in overflight low-level mapping photography and for your coming here to Phoenix and Tucson and giving us the opportunity of giving you this input.

Senator HASKELL. Thank you, Senator Mack, very much, indeed. Your comments are obviously very well thought out and pertinent.

I would like to mention there are pending certain amendments that would address themselves to your comment. The one that would particularly interest me, and I think has tremendous merit, is the regional representation of States on the board. Obviously you couldn't have a representative from each State because you would have an unwieldy board. But your suggestion of four representatives from regions, I think is extremely meritorious.

I thank you for your statement and I turn the microphone over to Senator Fannin.

Senator FANNIN. Thank you, Mr. Chairman, and Senator Mack, we do thank you for your fine statement. I know that you are chairman of the Arizona Senate National Resources Committee and you are the author of a State land use bill and have been very active for some time in land use legislation. It might be that you would like to just briefly outline what you did cover in your State land use bill. I know we can't have it in detail, but you had some very valid points that I thought should be brought out.

Senator MACK. Well, we in developing our land use legislation over the last 3 years—the bill is still in the House, it hasn't come out of the House yet. But we have it set up that we are putting the land use planning into the Governor's office. We have an advisory board for the Governor broken into the specific areas with representation from the legislature on this board to develop a policy, a comprehensive plan for the State, draft it into legislation, to be brought before the legislature in 1974.

The way we have gone about this is somewhat similar to what a few other States have done. Both States have gone ahead and drafted an interim policy which we haven't done. But we do have the planning set up in the Governor's office and an interim plan to be revised over

the areas of critical concern and I think this will fit into the long-range scope of what we want to do here in Arizona and fit into the Federal plan. We have drafted our legislation to conform with last year's 632.

Senator FANNIN. I want to thank you for doing the very substantial work you have done with my staff in Washington and here in Arizona. You have been extremely helpful and you have added a great deal to the thinking of the staff in reviewing the problems of the State of Arizona. You said in your statement that Arizona alone has 72 percent of its land owned by the Federal Government. Of course, that does include the Indian land. So do you feel Indian lands should be included in the National Land Use bill?

Senator MACK. Most definitely. As a matter of fact, I feel very strongly about this point. Incidentally, in the committee that we had from the citizenry, we had 14 people from all areas of industry, environmentalists, people from the banking world, real estate, and so on, and everyone of these people that sat on that advisory board addressing themselves to Senate bill 1014 this past year, that was the main thing they all agreed on, that all lands should be considered in developing a land use policy, that no land should be left out.

Senator FANNIN. Well, thank you very much. You have been very helpful today, I appreciate your statement, and I will look forward to working with you further on this legislation.

Senator HASKELL. Thank you very much, Senator Mack.

The next person to appear will be Representative Michael Goodwin.

Mr. GOODWIN. Thank you very much.

Senator HASKELL. Mr. Goodwin, it is a pleasure to have you here today.

#### STATEMENT OF MICHAEL GOODWIN, A MEMBER OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF ARIZONA

Mr. GOODWIN. Mr. Chairman, Senator Fannin. I am Michael Goodwin and I serve as chairman of the House Committee on Environmental Future of the Arizona State Legislature.

Before I begin, Mr. Chairman, I would like to express my appreciation to you and the distinguished members of the Subcommittee on the Environment for providing me with this opportunity to comment on national land use policy proposals currently before this Congress. I would like to express special appreciation to you, Chairman Fannin, for your untiring efforts in behalf of the State of Arizona and for the Nation.

Arizona, perhaps more than any other State, is suffering from a lack of sound land use planning and regulation. The State of Arizona continues to grow at a phenomenal rate. From an estimated 1972 population of nearly 2 million people, Arizona's population is expected to reach 4,431,000 by the year 2000—an increase of 2,500,000 residents in the next 28 years.

If I may, I have a written statement, and I would like to deviate from it.

Senator HASKELL. Your written statement can be submitted for the record and whatever you say will also be included in the hearings.

Mr. GOODWIN. Thank you. I would like to first thank the committee for allowing us to participate and for coming to Arizona so that you can get the broad view of what the Arizonans feel about the land and about planning it.

I would like to basically support the idea of Government help but I will later talk about certain areas in the bill that I think maybe we are going a bit too far on.

First of all I think we ought to consider that land use is only a part of the control of the environment. The real problem that we are talking about, the environmental, came about as we increased in population and the real thing we are talking about, therefore, are people and people's attitudes.

If we could right now define that area that we want to improve the most, it would be a better distribution and better lifestyle for the people, and consequently the attitudes that people have toward the land, toward themselves, and probably, toward themselves is the most important of all.

We know that because of Los Angeles, our neighbor, we know that air quality or the lack of it will not limit the growth of people coming to an area. We know from our own State, in the Flagstaff area, the lack of water is also not a deterrent for people coming. Flagstaff has a consistent supply of water for approximately 5,000 people. There are presently 13,000 and 2 years ago they had to bring water in by rail from Ashford, about 100 miles away. So we know that water doesn't limit the number of people or the distribution of people.

We find that land is our only tool to redistribute and limit the number of people that come to a state. Therefore, the land use policy and the land use program is the critical program being considered in the area of environment.

In Arizona we have tried to approach this challenge and I will mention a few of the things we have done already in terms of information systems. I will then mention who we are trying to coordinate this year and some of our hopes for the future, then try to make that short and come to the bill.

We have tried to approach this in a number of ways and maybe you have already heard it. First of all, the Arizona tradeoff model which is a system of overflights that was to be by satellites, was done by U-2's, which identifies the property description within the State. Each property ownership, it identifies the airports, the topography, the root structure, the foliage, the underground minerals and resources. The State is gridded off into 6 miles east and west and 10 miles north and south cells, for a planning unit. We find that unit a little too large in many of the areas, but it is one we are using.

We then establish certain criterias in terms of environment for the air, water and land, and, yes, even human values. It is hard to take a qualitative item and make it quantitative, but at least we have tried, so we can determine a scale and limit to the area that will allow industry and business to evaluate our environment. Hopefully, by the use of this tool and the analysis of the industries coming to this State, and their support facilities, those people, businesses, homes, automobiles and so on, that we can determine before we even start developing an area exactly what would happen to the environment in that area.

Now, when we couple this with the Arizona resources information system which was this flyover, which had told us all of this information, when we put those two together we have a very powerful tool. We are deciding where population should be, industry should be, if we spread them apart into other environmental zones, how we can

increase the population and economic opportunities within the State. But all of this needs to be coordinated and that is what Senator Mack talked about a few moments ago, and that is what we are working on presently in the State legislature. A method of planning, a method of implementation, a method and process.

We are working on three land use policy bills, primarily now drawing them together and hopefully will send to the Governor before the end of this session a bill that will begin to pull together the coordination of the people of the State and the resources of the State. We look right now at this type of planning process and realize this has to come from the people. It is of no value if we pass legislation and do not have the people's support. One of the ways that we see in this State that we like to keep the Government close to the people, is to have the cities develop their plan with their people, the counties develop their plan coordinated with the cities, the six regional planning areas coordinating the various counties and finally the State also coordinating with the State taking on the areas would cross boundaries of counties, highways which would cross boundaries of counties, placement of power utility corridors and these types of things. We think that the State will establish certain goals, we know that the counties will, and each city should have a right to establish their own goals of what they want their city to be.

We feel only through this coordinating vertical and horizontal within the cities, counties, regional areas and the State that we will end up with a truly coordinated effort where everybody is supporting the improved environment.

Finally, in the future we visualize a new system for Arizona, a system of redistributing population. As I indicated earlier, we will be able to know the kinds of densities, and where we can place them, in terms of various portions of this State, so that we do not further destroy our environment.

We visualize to accept the new population by a series of satellite cities, perhaps connected to these cities by a rapid transportation system which I would visualize the State could support, because of the increased value of the lands out there and the increased tax base.

We think that, by a system of tradeoffs with Federal lands, State lands, and private lands, around the cities, we could limit, with open spaces around the urban areas, and create new satellite cities of 50,000 to 100,000 people.

This is all great and exciting, and we are moving toward it. One thing I would like to caution: If we continue to plan on the basis of transplanting—that is, taking that which we have done in the past and multiplying it, and translating it to the future—we need only to look back to the past 10 or 15 years to see exactly what our future is going to be. We have to get into concept planning and new ideas, and new ways of living, and we must do all of this with an eye to the fact that presently a man earning \$9,000 has a difficult time qualifying for a home. We must do all of this to allow total lifestyle choices to all of the people of Arizona and, for that matter, from your concern, to the Nation.

All of this can be accomplished, I think. And all of this can have a great impact on the attitudes of people. But that really is the crux of it. If the people want well-defined cities, if the people want coordinated, enjoyable places to live, a choice of lifestyles, then it is going to have

to be the people that will begin requesting it, demanding it, and buying only the better, and by that we will end up with a better quality environment.

Mr. Chairman, I would like to make a few comments on the bill itself.

In the area of economic sanctions, I am, obviously, concerned about economic sanctions. In the first place, I don't think very many of them are invoked. So it may just be something out there to question. But I think, more importantly, the economic sanctions, is a negative approach. We are saying: "If you don't do this, we are holding a club over you and not going to give you money for various other areas—areas not even related to land use planning—if you don't do something."

I would suggest that a better approach might be one of a reward system, or positive approach, saying: "Yes, the 35 States that now have embarked on this type of program, we are going to fund you first and, as you get your plans developed and you are 3 or 4 years down the line, and move on to the administrative level, which is less expensive, then the other States as they develop receive their rewards".

Secondly, the Federal lands. The intention of the bill—and it states it in the beginning—says that it is to have the Federal Government coordinate with the State. But, as we move into the bill, we find that it in fact says the Federal Government on the Federal lands will plan the use of the Federal lands, and will then coordinate the acquiescent lands with the States.

We feel, if we are going to have a viable redistribution in the population in a State that has as much Federal and Indian land as we do, then it is important that the State has some say about the use of Federal lands within our boundaries.

The numerous reviews established in the bill have only one area that qualifies or limits the length of time that the Secretary would have to get these reviews. In other words, they must submit them, and each of the various departments has 30 days to review the plan. The only limiting factor is that the Secretary must come back with either an approval or denial within 60 days.

I feel that perhaps we should have said that he should distribute these simultaneously—but maybe it is implied—to the various departments.

On Indian lands, perhaps the toughest problem for the State of Arizona, we have in time past tried to find a way to involve the Indian lands in the planning process, in the taxing process in a variety of areas. Obviously, they are a separate nation and treaty.

I would hope that the Senate and the House of Representatives would look toward a way of involving the Indians in the planning process.

Now, this brings up the point that, if they go across State lands—and here is an area that the Federal Government should be very deeply involved in: the regionalism of the environmental planning. It is not a statewide plan, it has to be on a regional basis, and ultimately a national basis. But in the Indian land area there could be a number of ways: Either renegotiation of treaties, which I realize is difficult, or perhaps incentive programs on the reservations, which would induce them to cooperate with the States, and the State plan. But it is an area that should not be excluded as it is in this legislation.

There are a couple of other comments, Mr. Chairman, if I have the time.

Senator HASKELL. Certainly.

Mr. GOODWIN. The data-collection system; you run into a problem of establishing a uniform across-the-Nation system. The immediate problem is that you only have one or two computer companies that could handle the program that might be developed, thereby establishing not only at the Federal level but in all 50 States and all political subdivisions of that State a monopoly of particular companies and programs being used.

My biggest concern is that we have learned a lot from other States in seeing what they have done in the area of land use planning, of data collection. And I think that what we might lose by the coordinating notion, and the single-minded necessity that we would have, we might lose the absolute variety we are finding from Florida to Arizona, to Hawaii, and Alaska to Maine. We should try to allow for the base information to be collected, but leave flexibility within the States to develop programs that relate directly to their problems.

One of the things I heard last week in Washington was the problem of, I believe, either South Carolina or Georgia, which had 115 counties created by the constitution, plus they had home rule, and the electors or the people had no control from one county to the other. We have different problems across the Nation and I think the data-collection system is one that should recognize that.

The ad hoc committee which is established by the President to review the rejection of a State plan is, in a way, one sided, because it is created by the President, or appointed by the President from one Governor of a State not affected by this plan; and, second, by a governmental official. They will pick a third person to participate in this hearing. They do have 90 days to come up with an answer. I think the problem is that it is a little bit away from the normal arbitration—the way of establishing an arbitration board—in the sense that you may have everybody on one side of the issue, and I think, if you are truly going to have an ad hoc arbitration board, you ought to get adversaries from the two points of view—maybe someone from the State affected and from the Federal Government—and then allow them to choose the third, and have a real adversary situation, so you can come out with the best answers.

Finally, on the advisory committee, which is listed with two members, as I read it—two members from each State—and then representatives of the utilities, either within a State or across State lines; then to be paid \$100 a day—just a personal feeling here. I am concerned at having a membership of an advisory committee of some 200 people at \$100 a day, you know, spending the money when I think it could be done by picking up the telephone. I would feel that isn't the type of citizen input that is worth that kind of money.

Mr. Chairman, that is basically what I came to say, and I do appreciate your inviting me, and if you have any questions I would be most happy to answer them.

Senator HASKELL. Well, I don't know whether I have any questions, but I do have some comments.

I am impressed with how far down the road you are on the data processing collection here in Arizona. I certainly commend you for it and I think possibly you are further than any State I have heard of.

I would also like to comment on the process. I hope the bill, at least as you read it, because if you read it this way we have to do something about it, I hope the bill doesn't require each State to go through an identical process. If that is the way you read the bill I will look at it again, because that certainly is not the intent. The intent of the bill is that each State achieve certain objectives of inventory, but to say my State, Colorado, has to go through the same process as your State, Arizona, is certainly not my intent of the bill, and I will look at it from that viewpoint.

I would also like to commend you on your statement that we must get away from trend planning because trend planning, I think you and I, and I am sure Senator Fannin and others on the Interior Committee, is the way to disaster. It is a way to another Los Angeles or Chicago.

I appreciate your statements very much indeed, and I am now going to ask Senator Fannin if he has any questions or comments.

Senator FANNIN. Thank you, Mr. Chairman. I do want to commend you, Representative Goodwin, for a very fine statement and I will read your full remarks or your full statement as I know you covered the highlights and I appreciate your doing so.

I also commend you for what we would call kicking off the program of land use planning in Arizona. I remember the reports about your holding hearings around the State, and at that time I don't think many even thought about the program or that it would be necessary. I feel it was very innovative the way you handled this investigation.

Then, as I understand it, you introduced the State land use planning legislation in the State legislature 2 years ago, and you are continuing your work in that regard, as has been indicated by your remarks today.

In regard to those hearings you held, could you give us an idea as to how they were received, your remarks and projections and explanation of your thoughts?

Mr. GOODWIN. Yes, it was extremely interesting, Senator, because we went out with preconceived ideas, and I guess you can't get away from that. We visited Tucson, Yuma, Phoenix, Safford, Prescott, and Flagstaff. I might have left one out, but I believe those were the areas we visited.

We visited them at strange times, like Friday afternoons and Saturday mornings. The first thing that impressed me about it was that he held them on campus with the thought that the college students would be the ones that would be the strongest supporters and the people most interested in speaking.

We were quite intrigued by the people that did come out, who were in the age group of about 28 to 48, primarily. It is a large area, but that is the area of the people who really took to wanting something for their children. I think the areas that amazed me, there was a great amount of concern about the distribution of the riparian rights-of-way, especially in the Safford area and Yuma area. They were also concerned about the channelization both pro and con because we have a real problem there of how do we stop the floating and at the same time protect our riparian rights-of-way.

Flagstaff came out strongest, not for water or for land but to maintain the air quality.

Tucson is extremely well organized in that there are various groups that covered the total area.

But we found generally across the whole State there is a great desire to solve the problem and I think most every one can state the broad picture. What we are faced with in the next 2 years is getting down and implementing and we are now going to establish the goals which are necessary to any planning program.

But how do we get in and actually implement it. The State of Washington has just come forth with a bill that is pretty intriguing in the way they are going to implement their program. But we are quite pleased with the people in Arizona and as a result we find the support for environmental legislation in the house and senate is extremely strong to the point where Senator Back's bill just passed the Senate with 30-odd votes on land use planning, and I think that is a powerful statement of support.

Senator FANNIN. Well, thank you very much. You have been very helpful and I appreciate, too, the assistance you have given my staff in Washing'on and here in Phoenix.

Mr. GOODWIN. Thank you.

Senator HASKELL. Thank you, Representative Goodwin.

[The full statement follows:]

STATEMENT OF STATE REPRESENTATIVE MICHAEL GOODWIN, ARIZONA STATE LEGISLATURE,  
BEFORE SENATE SUBCOMMITTEE ON THE ENVIRONMENT, APRIL 2, 1973

Mr. Chairman and Members of the Committee:

I am Michael Goodwin and I serve as Chairman of the House Committee on Environmental Future of the Arizona State Legislature.

Before I begin Mr. Chairman, I would like to express my appreciation to you and to the distinguished members of the Subcommittee on the Environment for providing me with this opportunity to comment on national land use policy proposals currently before this Congress. I would like to express special appreciation to you, Chairman Fannin, for your untiring efforts in behalf of the State of Arizona and for the nation.

Arizona, perhaps more than any other State, is suffering from a lack of sound land use planning and regulation. The State of Arizona continues to grow at a phenomenal rate. [From an estimated 1972 population of nearly 2,000,000 people, Arizona's population is expected to reach 4,431,000 by the year 2000... an increase of 2,500,000 residents in the next 28 years.]

According to figures recently released by the Arizona office of Economic Planning and Development, the bulk of these new residents, almost 2,000,000 of them, will find their home in or near one of our two largest cities, either Phoenix or Tucson. As you know, Mr. Chairman, these areas are already reaching what would be considered a reasonable capacity in light of the limited availability of land, power and water resources. Nevertheless, many new residents are coming, and our State is expected to provide for them, even though there seem to be natural limits to what we can reasonably be expected to do.

The problem cannot be entirely phrased in terms of limited natural resources. It is also a problem of too many people within a given environmental zone and the attitudes of the people. We must find a way to balance the number of people within an environmental zone with the limits of air, water, land, and human values. We know by the example of Los Angeles and Orange Counties in California, that poor air quality will not limit population increase. And we know from the Flagstaff area within our own State that inadequate water also fails to serve as a deterrent to population increases (the City of Flagstaff has water resources for 5,000 people, yet has a population of in excess of 13,000). In order to adequately supply water to the population of Flagstaff, it has been necessary to purchase it from small private ponds, and two years ago it was brought in by rail from Ashfork, over 100 miles away. It seems to me our answer to population increases must come from the way we utilize our private lands, and the logical answer to this would be "land density zoning". Caution: Land density zoning is a two-edged sword. If improperly used, it will eliminate choices of lifestyle for those unable to afford the more expensive homes, resulting from a policy of too few houses per acre. In making our decisions we must therefore be constantly aware of the socio-economic forces within our society.

Arizona, in attempting to prepare itself for the task of making rational land use policy decisions, has embarked upon two significant federally assisted programs. The first of these is known as the Arizona Resource Informational System. A.R.I.S. is an operational computerized program developed by the National Aeronautics and Space Administration, the Department of Interior, and the State of Arizona. The program is designed to use overflights by the

satellite system known as EROS, and by the use of U-2's, which photograph the State by conventional methods and by infra-red photography. This photography, coupled with our Advanced Property Evaluation System and a three dimensional computerized system, enables us to determine all properties privately and publicly owned, who the owner is, and what physical improvements exist on the property. We are also able to determine the composition of the air, the foliage, its root structure, soil composition, mineral resources, underground water reserves, and the potential liquid waste storage capacities of a region. When this program is combined with the Arizona Tradeoff Model, commonly referred to as ATOM, we are able to evaluate the total economic potential of the State of Arizona measured against environmental quality standards which will be established by law.

The Arizona Tradeoff Model, simply defined, consists of a gridding of the State of Arizona into "cells" six miles east and west, and ten miles north and south, which form environmental study modules. These modules are programmed with regards to limits on environmental degradation in the areas of air, water, land, waste, and human values. These limitations come into play each time a major business or industry wishes to establish itself in a module. Since considerable data is available on American industry, it becomes a simple matter, in a one-to-one situation, to evaluate the secondary impact of an industry and its related support facilities, i.e. people, automobiles, shopping centers, homes, recreational facilities, etc., against the environmental limitations determined as practical for that environmental module.

When the Arizona Resource Information System and the Arizona Tradeoff Model are used as planning tools, they reveal considerable information for determining how much business and industry can be allowed to come into a

county or regional area. For example, if the officials of Graham County in Arizona were to ask us how much industry and what kind of industry should be located within the County boundaries, we could, after studying their transportation systems, their population, and other demographic input, determine the number of acres and the type of industry which could reasonably locate in this county. With this information we could go to the Arizona Tradeoff Model and determine the zones within the county that industry could logically be placed to optimize its negative environmental impact.

These programs are presently being developed and should come on line as practical decision-making tools within the next two years; but without goals established by the cities, by the counties, and by the State as a whole, and without these goals being translated into land use policies, these highly advanced and sophisticated tools will be of little use. The Arizona Legislature, therefore, is currently in the process of considering legislation to establish long-range plans for the proper planning of the State of Arizona.

Eventually, we envision a redistribution of the fifteen percent privately owned lands to new environmental zones in the form of a series of satellite cities, hopefully located within a controlled environment, surrounded by public lands. This would be achieved by the exchange of State lands for Federal lands in order to consolidate the sites for a complex of satellite cities in varying topography, such as forests, deserts and farmland. These cities would be designed to provide a varied selection of life-styles and to be in harmony with their surroundings.

The State would further enhance the value of these lands and the desirability of living in the satellite cities by financing and constructing a connecting

system of rapid transit between them and their closest urbanized neighbor. The State lands would then be exchanged for lands surrounding existing Arizona cities, hopefully on a dollar-for-dollar basis, which would serve to form an open space to limit growth of the urban areas. It should be noted that the establishment of rapid transit systems from the satellite cities to the urban areas would form nodes of people concentrated at certain periods of the day, and would serve as a base for the establishment of mass transportation spiraling from these nodes into the urban centers.

Even if we do all of this, we will still have an aesthetically poor environment as long as we fail to require better design of our planners, our builders, our architects, and our public officials. Remember that the outward environment plays a great role in the attitudes developed by our people, and if we wish to change and improve the attitudes of the American society, we must first change from "trend planning", in which the mistakes of the past are repeated, to conceptual planning.

Mr. Chairman, I have read the major land use policy bills currently under consideration by the Congress; however, the following remarks apply only to S.268, as I understand this is the bill in which the Senate is interested.

With regard to the necessity for including economic sanctions in national land use policy legislation, I would hope the Committee will reject this negative approach in favor of a more positive direction. Perhaps a more effective method to insure compliance would be through the application of a system of economic rewards for those States that have taken the initiative and have begun to formulate State land use programs.

I am encouraged to see the provisions under Title IV provide for the coordination of Federal and non-Federal lands. With so much of Arizona in Federal ownership, such a provision is essential to the formulation of a viable statewide land use planning system. I think it is important that the States be allowed the flexibility in determining, to a reasonable extent, how the Federal lands within the State shall be used.

I have serious reservations concerning the procedures in the bill for Federal review and termination of State grant eligibility. First, Section 305(a)(1) requires that after an initial five year period, the Secretary of the Interior is required to submit each State plan to be reviewed by all "Federal agencies which conduct or participate in construction, development, assistance or regulatory programs significantly affecting land use in such State, and to the National Advisory Board on Land Use Policy....." With so many agencies to rule on a State program, it could take a considerable period of time before a program is finally approved. For this reason I would recommend that this section be amended to provide that all of these agencies review the programs simultaneously to insure that Federal review will be accomplished with a minimum of delay.

Secondly, I disagree with the proposed make-up of the ad-hoc review committee that would be convened to rule on the adequacy of the Secretary's disapproval of a State program. As I understand it, this board will consist of a Governor of a State other than the State whose program is being reviewed, an impartial Federal official, and a private citizen selected by the other two members. I do not feel that this method of selection provides for adequate arbitration of State desires versus Federal requirements. Perhaps it would be better to provide that the hearing board consist of a spokesman for the

State program, a spokesman for the Department of the Interior, and another party to be selected by the other two, similar to the normal arbitration procedures established by the National Arbitration Society.

With regard to the funding level of any Federal grant-in-aid program under a national land use policy, it is my feeling that the amount of grants should not be based entirely on population. The percentage of Federal lands within the State should also be a factor. States with a high percentage of Federal and Indian lands meet peculiar and complex obstacles to the formulation of a State land use plan. For this reason, I feel that States with such problems should receive special consideration for higher funding.

I am particularly pleased that S. 268 recognizes the need for an exchange of State and Federal lands to accomplish adequate land planning.

Also I concur with the Section of S. 268 which would require that a State program include a land use data collection component. As I noted earlier, Arizona has already begun to make positive steps in establishing a data-system. I am concerned, however, that the Federal government might attempt to impose a particular type of data collection system on the States in order to insure ease of Federal-State data coordination. This would not only be costly for the States, but, on the whole, it would be impractical. In Arizona, for example, we are having ample difficulty coordinating the various types of computer systems employed on the State level without having to worry about a National hookup. I think a national land use data bank is fine if it does not add to the requirements that are already being imposed upon the States by this legislation.

Finally, I feel that the bill is vague in its application to Indian lands. In Section 501(c), the definition of Federal lands specifically excludes Indian lands. This, of course, handicaps those States which have large areas of land devoted to Indian reservations. We have been wrestling with taxation, representation, policing, and a variety of other problems in this area for some time. The laws and treaties governing the various reservations are complex and generally fall outside of the domain of the State. We must, therefore, look to the Federal government for help in this matter, either by the establishment of new treaties, grant-in-aid assistant programs to the Indians, or any other method that will allow Indian lands to be included within the overall statewide land use planning process. I would recommend that the Committee conduct a special study to determine the limits to which the States or the Federal government may go in directing or influencing the utilization of lands on our reservations.

In conclusion, I would like to reiterate my support of S. 268, and say that it will be viewed as welcome encouragement by many States that are already working on the modernization of their land use legislation. I would be glad to assist the Committee in any way that I can in the formulation of a national land use policy.

Thank you for allowing me this opportunity to testify.

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Senator HASKELL. Before the Governor of Arizona testifies, I am told that the video people want 2 minutes to change their tapes. Well, they tell me we can go, so, Governor, it is a tremendous pleasure to have you here and I would like personally, with Senator Fannin, to thank you for the tremendous help you gave to the Interior Committee on the hearings on the Hopi Navaho land dispute.

**STATEMENT OF HON. JACK WILLIAMS, GOVERNOR OF THE  
STATE OF ARIZONA**

Governor WILLIAMS. I got a nice letter from Senator Jackson on that.

Gentlemen, it is a pleasure to appear before you today representing the State of Arizona and her people. In their behalf I thank you for your effort and trouble in holding these hearings in Arizona for the purpose of determining their will in regard to proposed legislation before you for national land planning.

We in Arizona have been facing the realities and problems of this subject for several years and have accomplished a great deal; yet considerably more must be done. I believe our Legislature will accomplish its task without any club held over its head. In my charge to the current Arizona Legislature I set the task of land planning before them as a priority item. I am confident that Arizona will continue its efforts in this direction regardless of what is done by the Federal Government, and that we will in many ways shine the light on the rocky path of that effort which the U.S. Government might later follow.

The accomplishments in Arizona are too numerous to cite and discuss with you, but several will reflect that Arizona can be the prototype for wise action by the Federal Government.

In the area of our State trust lands, the Arizona Legislature enacted and I signed into laws provisions authorizing our State land department to make long-range plans for use and protection of 10 million acres of land. We have authorized that department to condition every title with whatever covenants for use are in the best interest of Arizona and the Trust. We have authorized that department to make private exchanges to block up State-private holdings. There are laws on the books for the total management of that asset according to the best scheme available to man. That takes care of about 13 percent of Arizona.

In the area of private lands in Arizona our Legislature and I put on the books laws for powerplant and transmission line siting, a subject of most serious concern due to the physical fact of organic fuel reserves in Arizona and Arizona's location on the map. We put on the books a State fire marshal with the power and duty to establish and enforce regulations for the protection of life and property throughout the State of Arizona, a most valuable tool for planning and an authority around which a very viable plan can be developed were nothing else to exist. A total resource inventory system has been underway in my office for over a year; as a result we are among the first States to have NASA photo flights and they are in use.

Some of the private land in Arizona is being developed or at least sold in small parcels in areas where the opportunity to succeed as permanent urban communities is highly doubtful. We respect the

constitutional guarantees of property, yet reasonable restraints are necessary on the occupation and use of one's property pending the establishment of those services needed for a stable community. This our legislature is now considering in the way of regulation of subdivision of water requirements.

Our local governments have powers to levy for flood control, to zone, and to approve or reject subdivision plats; our State real estate department has broad powers to require disclosure by real estate sales developers; we have a model cities authority; and we have many other planning and earth resources use management laws. Fully implemented, it would be my opinion that a very satisfactory planning effort can now be effected; however, to do the job more expeditiously and as reasonably as possible it is my belief that a central coordinating authority is needed, and our legislature is considering this now.

Experience will undoubtedly show us where existing laws must be strengthened and new ones enacted, and stronger authority must be provided for our local governments in the area of planning.

Arizona's regional planning system is among the leaders in this Nation, if not the best. Everything that need be done has not been done, and it is not my purpose to give that impression. What I do want to indicate is that Arizona is sophisticatedly aware of its needs and its wants and has been, and is, doing something about them.

Regardless of the gaps that may exist, Arizona is moving well ahead in its protection and use of its private lands, which accounts for 15 percent of our total land area.

Above all, Arizona wants to determine its own destiny. It would surprise me if every other State did not feel the same.

We are not interested in setting any population records.

What we want for ourselves and our families is to continue as closely as possible the life style that brought and keeps us here. That is simply stated but complex in practice, and it requires attending to those activities that provide food, fiber, and shelter just as seriously as ever with redoubled efforts to protect our environment, the pure air, the clear water, and the indescribably beautiful natural scenery.

Gentlemen, the 13 percent of the trust lands and the 15 percent of private lands are all we in Arizona are allowed to manage. The other 72 percent is in the hands of the Federal Government. That 72 percent breaks down 26 percent Indian and 46 percent all other Federal functions, from parks to forests.

Senate bill 268 now before you tells us rather boldly, you States had better begin to shape up or Federal moneys for other purposes are going to be withheld from you.

Permit me to review very, very briefly the job the Federal Government has been doing with the 72 percent it holds in trust, mind you, in Arizona.

It operates with mining laws over 100 years old which provide almost no control whatsoever on most mining operations; it has no planning program for the 19 million acres of Indian land in Arizona, which lands are so mixed and located in Arizona that any other planning effort will be defeated unless the Indian lands are also brought into the planning process.

Senate bill 268 specifically excludes the Indian land. I ask, how can any lasting planning and development job be done with 26 percent of the State excluded?

I am advised the U.S. Government has no powerplant and transmission line-siting authority; it operates under about 5,000 active land management laws; it has no coordination among numerous agencies doing the same job; and there are so many other things absent in the planning area that it is factual to say that the Federal Government has failed miserably in this area in its almost 200 years of existence.

In spite of that record, S. 268 proposes to create a totally new bureaucratic tool of relatively few people to tell every living American, and those to come, how each shall live from here on.

Anyone close to the problems of planning and of governing realizes the near impossibility and undesirability, even within one State, of trying to control all life style from the State capitol. Here Senate bill 268 proposes to do it from Washington by people who likely never lived in the States they will control and have no affection for them, and then by a foreign Governor in matters of dispute.

Any land planning effort, to be consistent with American style and philosophy, must consider and empower the local units of government. The States—not Federal Government—must be empowered to plan all lands within their boundaries, with appropriate review where national values are endangered. Who knows most about Texas, New Hampshire, Wisconsin, or Oregon, for example, and how they should be used than the people who live there?

The plan for Arizona should be made by people in Arizona who make their home here 12 months out of the year. They are the ones who are going to, and want most to protect it.

It would be very difficult to assess, but some people believe that the great depredation and destruction being visited upon our delicate Arizona ecosystems are due entirely to Federal programs which have oversold and overpropagandized the outdoors for their own selfish bureaucratic aggrandizement, and this to the extent that as a companion problem many people have been urged to—and have become disenchanted with their urban environments, expressing the same in mob and individual violence to person and property.

It is a simple summary to state that the Federal Government has had about 200 years to prove it can't handle subjects of this magnitude, and there is no history to support the creation of more power in Washington when the job has become more complex.

I must strongly urge that if legislation of the kind of S. 268 is considered that all power to plan all land within a State, except power to review for matters of critical national concern, be vested in the States. This is consistent with the new federalism program of moving the power back to the States.

Surely, a hands-off policy of giving the States 5 years to try, with Federal financial support, is not too much to ask in light of the 200 years used by the Federal level.

We in Arizona believe we know best how Arizona should be treated and that we can do the job.

I must stress that Arizona is in no way in disagreement with the need for planning, and we most strongly commend the Federal Government for deciding to do something at its level.

We believe we are approaching many desirable decisions with various Federal land managers. I urge you to move most cautiously in changing laws that permit trades and that the States not be deprived of their birthright to selections of land grants.

S. 268 should carry substantive and quantitative standards that will protect the States from possible unrealistic remote Washington control.

What I plead most vigorously for is the recognition of State's rights and improving their integrity and maturity.

Thank you very much for giving me this time.

Senator HASKELL. Thank you, Governor, very much indeed.

I know your problem on Federal lands and I would like to mention that there is another bill that the Interior Committee is considering that would require the Department of Interior to plan Federal lands and coordinate with States. In Arizona, more perhaps than in my State because we don't have quite that overwhelming a percentage that you have, this should be of assistance to you.

I would also like to mention that it is our every intention in the bill to recognize the unique qualities of the various States and obviously they are far more qualified to plan their State lands that we in Washington are.

My good friend Senator Fannin is on the committee and is aware of this, as I am.

The Indian problem is a real problem. I frankly can't think of what the solution is because of the unique status of Indians under our governmental structure and how we are going to integrate planning on Indian lands with both Federal plans on Federal lands and State planning, which can be cooperative. I see the mechanism, I hope we have the mechanism for combining State planning of State lands and Federal planning of Federal lands, but I must say no solution pops to my mind as to how we are going to coordinate it with Indian lands.

Well, Governor, thank you very much for your statement and I will now defer to Senator Fannin.

Senator FANNIN. Thank you very much, Mr. Chairman. I do want you to know that Governor Williams has been one of the very finest leaders in environmental activities and concerns, not only since he has been Governor but as a businessman he owned a radio and TV station at one time and also as a writer of considerable renown, as a commentator, so this is not a new field to him.

We are very pleased to have the Governor here; it is very important to us. I think the statement is one of the most objective statements we have heard from any witness.

Governor, I do want to commend you, especially for your leadership in the atomic program, the trade-off model. This trade-off model is a prototype, Mr. Chairman, of the future. I know how instrumental the Governor has been. It has a method of reaching accommodation for the competing interests of the environment and I know how successful he has been in cleaning up our environmental system, keeping people working, and that, of course, is important to all of our States.

I appreciate very much that the Governor is with us here this morning and his concern about what can be done if we do not have the Indian lands brought under the legislation. It could be of tremendous damage, I think, to the Indian people themselves. So we are working on that matter and hope we can come up with some conclusions.

Governor, do you view S. 268 as a preemption by the Federal Government of local government prerogatives?

Governor WILLIAMS. Without adequate protection in it, I do. I would like to add one more thing. We have magnificent Indian leadership in this State. We probably have more reservations than any other State. They are joining in our regional planning groups; they are asking to come in on our council of governments; we have some of them serving in our legislature; they are showing that the younger Indians are taking an approach that it is a problem that we all have. We are all in this State together and it is our State. From that we can build to an even greater future and I don't think they will give any problem in sensible planning to land use.

Senator HASKELL. Thank you, Governor, very much indeed. We will have a 5-minute recess and then reconvene.

[Recess taken.]

Senator HASKELL. The hearing will recommence.

The next witness will be Mr. Wallace Vegors of the State parks department. Mr. Vegors, it is a pleasure to have you here today and you may proceed in your own way.

#### STATEMENT OF WALLACE VEGORS, ASSISTANT DIRECTOR, ARIZONA STATE PARKS BOARD

Mr. VEGORS. Thank you, Mr. Chairman and Senator Fannin.

I am Wallace Vegors, assistant director of State parks. The staff of Arizona State parks has reviewed a version of the bill on land use planning legislation which was introduced by Senator Jackson and referred to the Committee on Interior and Insular Affairs. As we understand it, this bill proposes to establish a national land use policy and would encourage the States to develop adequate land use planning processes, through a program of grants, to achieve economically and environmentally sound uses of our land resources.

The language in title I is excellent, identifying major sources of our land use crisis of today and points out that management decisions are too often based on factors which too frequently are unrelated or contradictory to sound environmental, economic, and social land use considerations.

We support the statement of policy and believe that the purposes would be achieved by implementing this act.

However, we were alarmed when we saw the makeup of the National Advisory Board on land use policy. We see no representation from the States either on a regional or subregional basis, although we did note that there will be two advisory members representing the States. We would strongly recommend that the States, either on a regional or subregional basis, have actual representation on the National Advisory Board.

The remaining portions of the bill, in our estimation, would accomplish the purposes as set out in the preamble. There has been a great deal of activity in the Arizona Legislature during this session concerning land use planning on a statewide basis. We believe that the various States, particularly other States which aren't as far along as we are, would more realistically and objectively pursue enabling legislation for State land use planning, if a bill such as Senator Jackson's should be passed into law on a national level.

We in State parks continually face problems which result from developments whose planning fails to consider cultural or environ-

mental factors; we see the serious impairment of potentially outstanding scenic and recreational areas by conflicting land uses nearby. City and county zoning can accomplish and has accomplished much. A statewide view, or in many cases, a river basin or physiographic province view is necessary to adequately weigh the factors which must be considered for truly sound, long-term land use planning decisions. We believe the bill will serve as a useful tool in achieving these kinds of sound planning decisions.

Senator HASKELL. Thank you very much, Mr. Vegors, I think the point of view of the State parks department is particularly important here and I appreciate your testimony and I will defer now to Senator Fannin.

Senator FANNIN. Thank you, Mr. Chairman.

I just want to say that we have an excellent Arizona State Parks Board and Agency and thank Mr. Vegors for his statement this morning, and I do not have any questions.

Senator HASKELL. Thank you.

Before we ask the next witness to step forward, I would like to state that unfortunately, Congressman Morris Udall cannot be with us today because he is at this very hour chairing hearings on national land use legislation in the House Environment Subcommittee in Washington.

Mr. Udall's views are worthy of special attention. For several years he has led the effort in the House to gain passage of the legislation which is the subject of our hearing today. He served with Senator Fannin on the Public Land Law Review Commission whose difficult and sometimes tedious work created the backdrop for congressional action on responsible, informed land use reforms. He is known as one of the premier legislators in the Congress.

The position of Congressman Udall ultimately takes on this legislation will cast a long shadow in the Congress. Thus, at the outset, I am inserting into the hearing record the statement he issued only last week as hearings on national land use legislation commenced in the House of Representatives.

It gives me a great deal of pleasure to ask, with the consent of Senator Fannin that I insert in the record the statement of Congressman Udall.

Senator FANNIN. No objection.

Senator HASKELL. So without objection the record will include Congressman Udall's statement.

[The statement of Congressman Udall follows:]

STATEMENT OF HON. MORRIS K. UDALL, A U.S. REPRESENTATIVE IN CONGRESS  
FROM THE STATE OF ARIZONA

In this, the first of this year's hearings scheduled by the Subcommittee on the Environment of the Committee on Interior and Insular Affairs, we begin anew the effort to write legislation which hopefully will result in a wise land use planning program for the United States.

Three bills have been introduced on this subject at the present time, and have been assigned to this Subcommittee for consideration. H.R. 91, by Mr. Bennett, is identical to the bill submitted to Congress nearly two years ago by the Executive branch, and at that time also introduced by Mr. Bennett and others.

H.R. 2942, by Mr. Young of Florida, is identical to a bill that was adopted by the Senate last fall during the 92nd Congress.

H.R. 4862, by Mr. Saylor and others of our colleagues on this Committee, represents the submission made on this subject by the Administration this year.

The three bills have similarities and they have differences. They form a logical basis for hearings and further consideration by the Subcommittee. They also are similar in many respects to the bill this Committee developed last year, but which, partly due to the press of time, was not cleared for floor action. So the subject is not new to the Subcommittee.

But the problems we encountered with this legislation last year are still with us too. The Administration, in resubmitting its proposal to us, again includes some provisions that last year were not acceptable to this Committee and others that were deleted from the bill the Senate was able to pass. And the Senate bill contains amendments, adopted during the floor debate there, that in many respects change the character of the legislation recommended by the Committees on Interior and Insular Affairs of both Houses.

I believe I can in a few words summarize the thrust of the legislation that is before us. Each bill provides for Federal grants to encourage the States to develop land use planning programs. Each bill focuses particular attention on certain critical areas—of environmental concern, key facilities, impacted areas, and areas of more than local concern. The bill that passed the Senate last year, represented here by H.R. 2942, also provides for development of a comprehensive statewide land use planning program, which is something our Committee also included in the House bill last year.

Three other major differences between this year's Administration bill (H.R. 4862) and the reintroduced Senate bill (H.R. 2942) are these:

The Administration proposes that sanctions be applied against States failing to develop land use planning programs; the bill as it passed the Senate last year had all sanctions deleted.

The Administration bill does not provide for the establishment of a new Office of Land Use Policy Administration within the Department of the Interior, which the Senate bill authorizes.

The Senate bill contains a title on Federal-State coordination and cooperation in the planning and management of Federal and adjacent non-Federal lands. There is no counterpart in the Administration proposal.

I hope our witnesses in these hearings will address themselves not alone to the details of the respective bills, but also to some of the more basic questions this Committee and this Congress must answer if we are to enact land use planning legislation. These questions are as follows:

1. Witnesses before this Committee last year testified to the effect that we ought to have a national growth policy. Many Members agreed that this would be desirable. Our view then, however, was that development of such a policy would take time beyond which we should begin a land use planning program. Should we now try to establish a national growth policy? Or should we limit ourselves in the present effort to what is but a part of such a policy, that is, the initiation of a land use planning program?

2. Similarly, should we attempt in this legislation to solve property tax problems, for these unquestionably lie at the base of land use planning problems? If the communities of our Nation were not concerned with tax revenues to the extent that they are, land use and development could perhaps take a more desirable form. Some Members of Congress have said that any attempt to embark on a land use planning program without solving the tax situation would be largely ineffective. Again, last year our Committee thought we should take but one step at a time and establish the land use planning grant program without addressing the related matter of taxation.

3. Who should administer the national program? What agency has the required expertise? Two years ago, a bill that Mr. Meeds, Mr. Reid of New York, and I introduced for consideration of the Committee would place the Federal authority in an interagency body, a Land and Water Resources Council; but the Committee followed the recommendation of the Executive branch that it be in the Department of the Interior. Yet, perhaps today those agencies with most experience in this field are the Department of Housing and Urban Development and the Department of Agriculture. We should have cogent reasons for placing the authority where we finally do.

4. To what extent should the Federal government—whoever administers its program—prevail? Should Federal officials review the details of each State's land use planning program? Or should they be empowered only to approve the process established by a State to carry out its program. To what extent should States be able to delegate their authority to local and regional entities within their borders? Or outside their borders—to interstate, regional agencies? The Public Land Law Review Commission recommended that "Comprehensive land

use planning should be encouraged through regional commissions along the lines of the river basin commissions created under the Water Resources Planning Act of 1965."

5. Should we attempt to initiate comprehensive planning—that is, plans encompassing all the lands within a State's boundaries, as we tried to do last year in this Committee, and as the Senate-passed bill would do; or should we limit this bill to the critical areas recommended to us by the Administration and generally embodied in the Model State Legislation proposed by the American Law Institute?

6. How should we insure a coordinated planning effort by the public land management agencies with respect to nearly one-third of our Nation's land the States and local governmental entities as to the other two-thirds of our land? The Administration proposal suggests that there should be some coordination. The Senate bill perhaps states more affirmatively that there shall be some coordination. Last year's House bill required coordination by including mandates to the Federal agencies as well as the guidelines for the States. This problem, of course, is of particular significance in the Western States, where the Federal public lands are intermingled often in a checkerboard pattern with the private and State lands.

7. Should there be sanctions in the bill or should it be allowed to stand on its own as many other Government programs do? If there are sanctions, what should they be? Is there a proper rationale for continuing other Federal programs (such as superhighway construction) if they conflict with the land use planning process?

8. Finally, what is the proper level of Federal financing for a land use planning program? What amount of money will it take to put the States into such a program? And what should be the relationship of the effort made on land use planning, for example, with programs such as highway construction?

As helpful as I hope these hearings will be to the Subcommittee, I do not suppose that all of these questions will be answered at this time. But unless our Members and our witnesses address themselves to these types of considerations, it will be difficult to develop the type of legislation I believe is necessary.

This is legislation in my opinion whose time has come. But it does not come automatically. The time will arrive only when we have found some answers to the questions I have placed before you. They are not questions that answer themselves.

Senator HASKELL. The next witness is Mr. Andrew L. Bettwy, of the State Land Department.

#### STATEMENT OF ANDREW L. BETTWY, STATE LAND COMMISSIONER

Mr. BETTWY. Senator Haskell and Senator Fannin, in my opinion it is a credit to your statesmanship that you have made it possible for this hearing to allow ideas from Arizona to be heard.

As State land commissioner I appear before you today for the State land department, a single head agency that is the State's soil conservation office which covers 53 million acres of land in Arizona.

It is the State's forestry office concerned with the appropriation of all surface waters and the control of groundwaters. When critical groundwater areas are established this agency establishes them. I must say, the appropriation of water does not include the appropriation of water from the main system of the Colorado River.

This office is also the State forestry office concerned with all forests except those on Federal lands, and has statewide responsibility of the Clark-McNary Act.

The Land Commissioner sits on about 15 other critical resource agencies from Model Cities Council to Power Plant and Transmission Line Siting Committee. I won't detail those to you.

The responsibility we are most identified with is the administration of 10 million or 9.7 million acres of State lands given to the State in trust by the Federal Government, a subject of which I am sure you are aware.

This office that we have in Arizona, I believe, would stack up with any office in the United States as having a concentration of natural

resource responsibilities. My experience has been that regardless of the conflicts and disagreements that occur because you can never satisfy everyone, that it is the most commendable type of arrangement and one that I would certainly suggest that the Federal Government look at, a central listing of the responsibility where quick decisions can be made on tough, complicated matters.

In the area of planning, soil conservation people have been doing this since 1930. It is nothing new to them. As a matter of fact, I think the Soil Conservation Society first suggested a Federal land use policy in 1948 so that is 25 years ago that they started talking about it. Planning for land use needs no defense. There has been planning. I think we would be wrong to consider this a new subject.

Everything that man has done deliberately has been according to a plan. What we are considering here today is a new organization structure and perhaps new standards for a reasonable plan in our time and hopefully one that will have validity beyond our time.

I fear S. 268 purports to cover these two points of organization and standards with a powerful top-heavy Federal authority that can veto any State authority or any State activity. In my opinion this will not bring about a better plan. I have heard comments this is not the intent of the bill and there are beliefs that it doesn't read that way. I also have a law school background and for whatever validity that is, I fear mostly the way that reads and I think it absolutely gives the final word at the Federal level and it will be given to people who in my opinion will have the least knowledge of the various 50 States and territories in the Federal District.

In my opinion there is no realistic provision in S. 268 for a proper interfacing by the Federal Government with the States, particularly in States like Arizona, roughly and generally our 11 Western States and Alaska, where the dominating influence is the Federal Government.

I believe it must be accepted that the people who live in the State know its problems best. Just as an example, a Washington office in my opinion would need 2 million people to match the 2 million people in Arizona in experience and awareness of the problems.

I think the decisions should be made by the States and not by people selected from other States and brought together in Washington, whose idealism perhaps is so far removed from reality that we create a worse situation rather than benefit.

One thing in S. 268 that appears totally absent is that there is no provision for emergency action in the event of wars, in the event of acts of God and force majeure. I can't imagine that we would anticipate having to go through the processes this bill contemplates in land use action in the event of an act of God or war. I think we should allow for an emergency action on the part of the Federal Government and State and local agencies. I can't anticipate all the emergencies that might occur, we learn something every day in that area.

S. 268 in my opinion is further faulty to a serious fault in its working. It doesn't set, in my opinion, substantive guidelines or quality standards which should be general enough to lend themselves to interpretations that will not interfere with local integrity.

I looked at a copy of the U.S. Constitution this morning. By comparison to bill S. 268 it would take about 20 pages for the entire Constitution and all of its amendments, and I saw something yesterday where this S. 268 has now swollen to about 183 pages.

In my opinion this bill proposes to legislate rules and regulations and not those broad general principles that can lend themselves to proper interpretation and proper lifestyle of the various indigenous populations with which we are concerned throughout our country.

One of the most serious concerns that I have as land commissioner is that S. 268 as it is now written and once implemented is going to bring all of the Federal processes to a halt. I won't burden you and I wouldn't have time this morning to tell you of all the various programs, conversations, and proposals that we have active now with rural conservation agencies of the Federal Government, with the National Park System. We have problems in every national park where we either have land adjacent to their land or they have land adjacent to ours.

It is an interesting question, I think, when you get to the definition of non-Federal adjacent lands. We have problems with the Corp of Engineers and the Air Force, gunnery ranges and forts.

These things alone would amount to problems in excess of 100,000 acres of critically located land which the State has in which we are willing to negotiate and deal with the Federal Government, given the right opportunity to not abuse our responsibilities as trustees.

I believe if S. 268 is enacted as it is now, without some provision to allow the continuity of those programs now in force or in movement, that we are going to do a great disservice to ourselves as a State and as a Nation.

We still, as a matter of fact, have about 180,000 acres to select that we have never claimed specifically from the Federal Government. I would fear mostly our opportunity to select those lands if this type of legislation goes through, again without specific exclusionary language that would allow these matters to continue. I fear submission of these decisions to a 5-year experiment, and that is what is being contemplated, and then the additional and almost endless time that would be involved in civil rights and legal aid implications which I can read clearly into these bills, will undoubtedly prohibit in my opinion the necessary action at the right time for the benefit of our Nation and State.

Our State department of mineral resources shares a like concern that tough resource management decisions that must be made for total social good are also going to be abandoned or unreasonably delayed. They ask in the interest of saving your time that I include their presentation with mine and I have done so.

If I can paraphrase what they said, their greatest concern is that our national programs continue to foster and promote the discovery and evaluation of our mineral reserves, rather than to leave large areas in doubt to the detriment of the national interest, which could be catastrophic to present and future generations for not having known timely of our resource assets and limitations.

I feel that the concept of S. 268 that calls for the management of its own lands as well as the non-Federal adjacent lands has two very serious weaknesses. The point of departure should be from State plans and not from Federal plans and the other, in my opinion, is if this must be accepted as written, that a very, very clear definition of what the extent and meaning of adjacent non-Federal lands must be established. It would seem to me if you touch Federal lands and then you go all the way to Mexico for 180 miles with a solid block

of State trust land or private land, that is adjacent land by somebody's definition. What that concept is in my opinion deserves the most clarity.

I also feel it should be determined who is adjacent to whom. Just because a small block of Federal land might exist somewhere, is that the tail that wags the dog or is it the other way around?

There is one provision in the bill that provides for appointing a foreign Governor to sit in judgment in a State that hasn't met the criteria for this act. I can't imagine anything more dissatisfactory to the management of one's own State and I would strongly urge if a Governor be appointed, he should come from his own State so he can be an advocate of his State and not sit defenseless by some foreign Governor who has problems of his own.

The bill touches too lightly, in my opinion, on the process of due compensation in the cases where property is taken for various reasons. It alludes to it but makes no reference, no scheme of how the parties will be paid. I believe that goes to the very heart of any planning process. I think that is where we fail in everything we do. We want to determine how another man's land should be used, we want to restrict his use of it, but make no provision for compensating him for it, yet our Constitution couldn't be more clear in that respect, in my opinion.

The subject of the Indians has already been covered. The absence of any real concern in that regard in the bill probably is not unusual. But the Indians are real, gentlemen, they are alive and a most important part of Arizona. Their lands must be a part of any realistic plan in this State.

I would suggest that perhaps a manner of approaching this fertile and enforceable plan would be to have State Indian land compacts or perhaps Federal Indian treaties that would bring the people to the bargaining table and provide a method whereby conflicts can be resolved, and we can move ahead.

I have several other points that relate specifically to the bill, but I am only going to touch on a few.

As land commissioner, it seems that my experience generally in the last 3 years has been to be facing situations where everything revolved around water. Water is the element that moves all beings. In defense of the need to consider water, I would stress that this bill should talk about total earth resources. Certainly water is one of them, but the concept here that land can be planned as such a substance as material in your hands, I read that totally through this bill, I think is unsophisticated in the light of what we really realize and know.

On page 26, lines 2 and 3, I want to stress this particularly, reads to me like a completely new system of legal aid to any party complainant of the plan can get Federal assistance——

Senator HASKELL. Where is that?

Mr. BETTWY. Page 26, lines 2 and 3. That suggests a basis for completely new legal aid assistance where the Government would have to provide counsel so that anyone who is complainant would have a right to be heard in court. If my understanding is correct in that, then I think the costs and delays have to be frightening.

I would like to comment on page 47, line 5. It talks there about protecting rare and valuable ecosystems. I am not a biologist, but I have had to learn a little bit about what ecosystem means and in my

opinion they are all important and we are more concerned about protecting those that might be in danger. I would suggest that the phraseology there stress the concept of danger.

I had an opportunity last night to look at a document that has a lot of proposed changes in this bill and it proposes to add a new title VI to the bill of which I was totally unaware. It concerns itself with second homes and subdivision regulations. My concern is that our laws as little as possible interfere with the buying and selling process of land in the same manner that we attempt to allow free negotiation of personal property and bonds and things of that nature.

This section, as I read it, attempts to reach the problem by interfering with the buying and selling process and not in the manner in which I think it can be rightfully done and with which I think cooperation can be gotten from the owners of the land.

What is needed is a reasonable restraint on permanent development of land until such time that the services that are necessary to make viable use of those lands are available.

I think this could become very simply. But all of the attempts that come about by trying to frustrate land sales through frustrating the filing of subdivisions create all of the most peculiar and sophisticated and subtle devices for procuring land anywhere that in those cases you end up with no consideration of the amenities and needs of rights-of-way and things of that nature that are absolutely necessary.

I would like very briefly to touch on one definition and I think the definitions bear the most serious concern. We are talking about matters of environmental concern and they list things such as agriculture and grazing. I leave with you the thought that the matters of environmental concern in Arizona are agriculture and grazing, then those are going to be frustrated from further development.

Senator HASKELL. Could you cite the section on that?

Mr. BETTWY. I can give it to you later, I don't have the bill with me. In my opinion that would cover about 99.5 percent of Arizona. This would be an area of vital environmental concern.

I have a few points in conclusion. If I could attempt to emphasize to you one point of law, it would be that of time. I beg you and beseech you not to permit management and decision processes to be slowed any more than they are today. I think to do this you must keep the decisionmaking process in Congress and not turn it over to the courts. If you are going to turn it over to the courts, the time and delay is going to be detrimental to us all.

I want you to realize I have had a hard struggle with my own personal interest as a lawyer to make that statement to you, but I think the decisions that are tough must be made administratively, and if they result in unsatisfactory public opinion, let them be made.

I have to stress that the decisions of the plans for a State must come from a State and with very little if any Federal intervention. Only in those matters of national concern. I believe to that extent the State decisions should govern Federal land. We don't have the concern of a transient part-time visitor.

I would like to say this to you, I plead for the greatest possible diagnosis of our problem before you allow some Federal agency to engage in surgery that will exercise some of our vital organs. If you can treat us with care and trust, I think a far better result will occur.

In that area I plead that the Congress move slowly in this area because you may be setting into motion a series of events that will lead to calamity. A better solution would be to provide seed money to the States for a planning period of time. Allow to States to move for that 5-year period of time and then assess what they have failed to do, but give them the chance to act on their own.

I think Arizona can give you the best return on the dollar that you can get and I plead in Arizona's behalf.

[The prepared statement of Mr. Bettwy follows:]

Honorable Paul Fannin  
U. S. Senator from Arizona  
3413 Federal Building  
Phoenix, Arizona 85025

Re: S-268 Hearing  
Phoenix, Arizona  
April 2, 1973

Dear Sir and your colleagues:

It is a credit to your statesmanship that you have made it possible for this hearing to allow ideas from Arizona to be heard.

As State Land Commissioner I appear before you today for the State Land Department, a single head agency that is the State's Soil Conservation Office relating to 53 million of Arizona's 72 million acres; it is the State water appropriation rights and groundwater control agency (except appropriations from the Colorado River);

it is the State Forestry Office for all non-federally controlled forestry, and administers the Clark-McNary rural fire protection programs;

the Commissioner is an official State representative on ten or more key resource boards and agencies, such as Parks, Water Quality Control, Power Plant and Transmission Line Siting Committee, Water

Commission, Model Cities Council, Oil & Gas Conservation Commission, and the Governor's Commission on Arizona Environment;

and it is the administrative office for the direct management of State lands, most of which consist of about 9.7 million acres remaining of 10.5 million acres given to our state in trust.

I recite these duties to you so that my comments may be read in light of the effort this office must exert to maintain the integrity that each subject would deserve if separately administered, and also in light of the compromises that must be made, the same as the eventual conclusions which would have to be made were each subject to have an agency head to speak for itself.

The inter-disciplinary benefits of such an organization are too numerous to mention, and the ability to resolve conflicts and move to the next problem is of highest value.

This office can be compared in structure to the U. S. Departments of Interior and Agriculture and having proportionately the equivalent duties of both. If it is desirable to avoid duplication of effort, cross conflict and lack of coordination, I doubt if any state has done so well to group that many natural resource functions in one office. My experience leaves me without doubt that this consolidation is desirable, and experience to the contrary at the federal level easily defends me in this belief.

To add further clarity to my remarks as their not being

those of a person who foresees being the State Planner, you are advised that this agency is not being considered as the lead agency for statewide land planning.

[Soil conservation people have been doing land planning in the highest sense at that time since the 1930's.] The Soil Conservation Society, I understand, first suggested a federal land use policy in 1948. You, as individuals, most likely have had similar concerns for many many years.

A reasonably organized approach to humanity's activities on his land is unquestionably necessary for his existence, survival and happiness, and planning for land use needs no defense.

There has been planning; everything that man has done deliberately has been according to a plan. It may deflate our ego to acknowledge that we are today merely reconsidering the organization and the standards for a reasonable plan in our time.

S-268 purports to cover these by a power top heavy federal authority that can veto any state activity. In my opinion this will not bring about a better plan. It is inconceivable that a plan developed from Washington can have the sophistication of a state plan.

A federal office that can speak for the federal government much like S-268 insists for the states is needed, and as a counterpart the duplication of effort and overlapping of authority must be

eliminated if we are serious about a good plan and putting it into effect.

S-268 makes no realistic provision for federal interfacing with the states which are heavily influenced by federal land holdings.

The concept of S-268 that proposes to structure a ten million dollar Washington office of people gathered from the fifty states and territories is inconsistent with the predicate of states' rights.

If it is accepted that the people who live in a state know its problems best, the Washington office will need at least two million people to match the knowledge of the two million people in Arizona who live here every day. Even then they cannot in any way match the experience of the two million who live in Arizona. The same observation can be made for every other state.

It is my personal belief that S-268 is in effect a proposed total abandonment of statesmanship to the delays and inconclusiveness of a public forum. The subjects of land planning, resource protection and use demand speedy and often unpopular decisions.

As a nation I do not believe we can afford to slow the decision making process any more; however, reasonable opportunity for public input can be made.

There appears to be a total absence of any provision for emergency action in the event of war, act of God or force majeure.

There must be procedure for action in those cases and at all levels.

Lawmakers and law users are familiar with the Latin phrase "expressio unis est exclusio alterius" which means, "the expression of one thing is the exclusion of another." Single words of legislation become the subject of all levels of litigation, and they become words of art. In my belief, S-268 is wordy to a serious fault. It also fails to set any substantive guidelines and quality standards, which should be general enough to lend themselves to interpretations that will not interfere with local integrity.

The realistic concern of the State Land Department is the possibility that S-268 will bring all federal land activities and programs now in process to a halt.

As a few examples, the Land Department has active communication with federal agencies for rural conservation measures. Just last Friday it met with the Arizona National Park Service Director in continuing and detailed discussion over problems of their lands, which are adjacent to some of Arizona's most valuable property. They are adjacent to our lands in the Lake Powell, the Grand Canyon, the Lake Mead Recreation, and the Sahuaro and Organ Pipe National Monuments areas.

The Corps of Engineers are urging us to help them clear up title to about 80,000 state acres in air force gunnery ranges, air bases and military forts. They have peripheral problems relating to

the noise and the other noxious results of their activities.

The Bureau of Land Management and the State of Arizona are going to be in business as long as the nation survives. We have as many problems and objectives as they do. Arizona still has somewhere between 150 to 180 thousand acres due it under original land grants. We are most actively engaged in working out solutions to these problems and to claiming the specific areas for the balance of those grants.

Submission of these decisions to a five-year experiment and then to other additional almost endless delays from the "civil rights" and "legal aid" implications of S-268 will undoubtedly be most harmful to the national and our state's interests.

Our State Department of Mineral Resources shares a like concern that tough resource management decisions that must be made for total social good are going to be abandoned. They have asked in the interest of saving your time that I include their presentation with this one.

Their greatest concern is that our national programs foster and promote the discovery and evaluation of our mineral reserves, rather than to leave large areas in doubt to the detriment of the national interest, which could be catastrophic to present and future generations for not having known timely of our resource assets and limitations.

The concept of S-268 that calls for United States management of its own lands and those non-federal adjacent lands has at least two serious weaknesses.

The concept should be predicated on the state's right to at least plan the federal land adjacent to the land of the private citizens and of the state. If the concept of S-268 must be accepted, the extent and meaning of non-federal adjacent land must be fixed most specifically, and who is adjacent to whom should also be clarified.

One must also abhor and retract from the concept that if Arizona and the federal government have a dispute the matter will be turned over to a federally hand-picked committee and a foreign governor.

The bill avoids the subject that will make dreams a reality, and that is a direct method to comply promptly with compensation consistent with constitutional property right guarantees.

The absence of awareness in S-268 that the Indians exist and that they hold over one-fourth of Arizona probably is not unusual at the federal level, but they are real, alive and a most important part of Arizona. The Indian lands must be in any realistic plan. A system for fertile enforceable State-Indian compacts would work.

The federal government is at least in its fourth year of drafting a bill of the kind of S-268; with the time available it is

impossible to review S-268 and comment on it to the extent that if all specific suggestions were adopted the bill could be blessed as acceptable.

However, a few specific references to S-268 follow:

Page 4, line 24, "ought" should be changed to "must". It is inconceivable that a national land use policy would even question that the needs and interests of the people to be affected would be other than an absolute part of the policy.

Page 6, line 13, the word "water" should be added before resources. Neither land nor water may be planned in isolation from the other if man's use and protection of them is the object.

Page 11, line 12, add "Interior". That agency above all should be represented on the Board. Does the law foresee that the chairman will be Interior's advocate? A faulty organization, if so.

Page 13, lines 18 thru 24, the state government should appoint all representatives from its state.

Page 20, line 23, the law provides that there be ONE state agency. This is an unrealistic lack of recognition of most state governments and an unjustified assumption that several agencies cannot do the job; it invades states' rights to administer its own problems, and it will undoubtedly cause many federal-type duplications and overlapping of purpose, act and function. The law should read that "the state has established the necessary authorities to effect

a plan and implement it." I have no brief against a single agency, but realities suggest that there be flexibility.

Page 26, lines 2 and 3 read like a completely new system of legal aid to any party complainant of the plan. Such a system would be frightenly costly and would also effectively bring our country to its knees.

Page 26, lines 7 thru 12 innocently touch on the heartbeat of the entire planning process; fair constitutional dealing with the property rights of our citizens. This clause makes no provision for payment or action if non-payment. It avoids the most important consideration that must be recognized in the implementation of any plan.

Page 32, line 20 re the "ad hoc hearing board". This should include the governor of the state affected and not the governor of some foreign disinterested state.

Page 40, Sec. 403. The Governor should appoint everyone from his state.

Page 46, lines 15 thru 20. In no manner can the Indians be left out of the program if any good job is to be done in Arizona.

Page 47, line 5. All eco-systems are of cultural environmental concern. The existing words should be replaced with or complemented with the word "endangered".

These are very superficial comments that must be read with the general disapproval of the entire concept of federal dominance in the entire program.

## COMMENTS ON S-268 BY THE ARIZONA DEPARTMENT OF MINERAL RESOURCES.

This bill seems more oriented toward political appeasement of current environmental clamor rather than true governmental statesmanship, for which this Department pleads. The comprehensive effort, approach and intent are perceptible, but a real appreciation of the true scope and magnitude of the problems and side effects involved seems lacking.

In spite of this difficulty and the somewhat substantial necessity of excessive unmeaningful generalities, the bill could prove socially useful and successful. To be more categorical on this point would require considerable more consideration than one quick reading. The most fatal error is that the bill ignores completely the fundamental fact that human aesthetics and material well being are not universally compatible absolutes and that delicate compromises will be mandatory to achieve the best of both for the majority. This is especially true with our extremely precarious nonrenewable sub-surface resources which are totally immovable and solely divinely located without regard to human choice or aesthetics.

Hunting, prospecting, finding and exploration are indisputable land uses and must be almost everywhere allowable if we are to continue any semblance of self sufficiency. It is imperative that we,

as much as possible, leave knowledge of our mineral resources to our children for their survival. Mining, production or development, on the other hand, is an entirely distinct and separate operation requiring very little total area, but having no choice as to where that area must be located. Once a deposit is found it may or may not be wise or necessary to immediately mine it, but the location and evaluation process, i. e., exploration, must go on continuously everywhere and thus is an inseparable and fundamental part of any intelligent land use plan.

The Department of Mineral Resources supports the idea of comprehensive land use planning, and we have no objection to a national policy that establishes national guide lines. The guide lines must be such that they do not infringe on the power of the various states to regulate in the manner required for their own peculiar needs and requirements.

I select one point above for comment: that is the subject of time. You are beseeched not to permit management and decision processes to be slowed any more than they move today. To do this you are urged to keep the burden of decision making to yourself and not to turn it over to the courts, where the process reduces itself to the decision of the fewest. We would most welcome any process that speeds things up.

The decisions must, I believe, come from the state, with federal interference only in matters of national concern, and to that extent the state decisions should govern federal lands.

Your concern for this subject is timely and most commendable; I plead that the greatest possible diagnosis precede any surgery that will exorcise vital organs from the states. If they can be treated with care and trust, a far better result will occur.

Above all, Congress, I believe, must move most cautiously in this area unless it set in motion a system that cannot be reversed short of national calamity. A far better plan would be to give the states equal unfettered seed money of two million dollars for each of three years. In that manner the best picture can be painted, showing where the needs exist for federal assumption of power, for imposition of restraints and for withholding of further funds. The most urgent need, as almost always, is for financial assistance. I have no doubt that Arizona can and will do the best job for the dollar spent.

Respectfully submitted,

Andrew L. Bettwy  
State Land Commissioner

Senator HASKELL. Thank you very much, Mr. Bettwy. It would be very helpful if you would submit, in view of the fact that we are going to, for the next couple of weeks, be discussing amendments to this bill, if you would submit specific language for changes and I am sure all of us on the committee would appreciate it.

I think this would be very helpful to us because obviously you have given the matter a great deal of thought.

Mr. BETTWY. I would be happy to do that.

Senator FANNIN. I commend you for an excellent statement and your vigorous leadership as State land commissioner.

I especially want to commend you for the work you have been able to do with the mine companies to increase the spoil bank benches that will many years from now sustain housing and for taking the actions that I think are essential to future planning. This is quite unusual as far as the planning in many of the States is concerned.

I am concerned as to what we are going to be able to do about some of the energy siting problems. I would like to have your thoughts. We, for instance, need refineries now in this country of ours. We have only built 1 refinery in the last 5 years and have 1,000 under construction. We need additional refineries.

As you know, there are very few States that want refineries located within their bounds. Arizona included.

What do you think we can do to work out a program that would make it possible to meet this very urgent need and still provide the States with the protection you discussed?

Mr. BETTWY. Well, I wouldn't consider myself an authority on the energy crisis. I think I have some awareness of it, I visited Alaska last year, and trailed the route of the proposed pipeline. We went to Prudeau Bay and became familiar with the fact that there are proven reserves in excess of 10 billion barrels there, that they are going to compress gas and sell it to the Japanese. To me this is not understandable on our part to allow these things to be happening.

In that area alone we have a great source of meeting certain energy requirements for a short term within our own country.

Senator FANNIN. Yes; I am not talking about the production of petroleum products, because I agree wholeheartedly with you that we should go forth with the Alaskan pipeline, either the one that is now planned or one down through Canada. We won't get into the different arguments in that regard, and also the offshore drilling and the different means available.

I am talking about the location of a refinery. When we have the crude coming in, we still do not have the refinery capacity. We don't even have the refinery capacity now to take care of the contemplated increases we hope to have when we go to the offshore drilling and the bringing of oil from the Alaskan pipeline.

Mr. BETTWY. I don't think I personally want to suffer the ill effects of those things that our specialists tell us that come from particulates and other emissions discharged to the air. I have children and I hope they will have long lives. I personally feel we have to make some compromises between the highest ideal of lifestyle that we want and those which are real and true based on the time in which we are living. I don't know whether the solution of this might not be to putting these matters to public elections and if people want to rule them out by election process, fine, if they don't we move forward with them and continue in the manner in which our best technology tells us.

Senator FANNIN. I am bringing up the subject because this is one reason why we are even considering a land use planning bill, because we must provide some way to have the powerplants, transmission lines, refineries, deep water ports. So this is a very serious consideration.

I realize in our State we sell our environment as much as we do any other resource that we have and I am vitally concerned about protecting that environment. I also know we have obligations on our part, as far as one State to another. We know there is a great deal of criticism of having all of the powerplants in the Four Corners area and we hear from our people about the powerplants within the State of Arizona. But I do feel as we go forward with our technology we can develop these resources without having to have contamination of the atmosphere and I think this is something that we must face as time goes along, because we need additional refineries in a hurry and we will need additional powerplants for the furnishing of that energy.

So this is something that you must have in your planning efforts and hope that you will give a great deal of thought to that and perhaps have some solution. Not at the present time, but as we proceed with the developments that I am talking about.

Mr. BETTWEY. Very briefly, I thoroughly agree with what you stated. I would like to restate what Governor Williams mentioned very quickly, Arizona does have a powerplant and transmission line siting committee. It is a very sophisticated group with all disciplines in it.

Senator FANNIN. Yes; and I certainly commend the Governor for what has been done.

Thank you very much.

[Subsequent to the hearing Mr. Bettwey submitted the following information:]

OFFICE OF STATE LAND DEPARTMENT,  
Phoenix, Ariz., April 4, 1973.

Hon. FLOYD HASKELL,  
U.S. Senator,  
U.S. Senate Building,  
Washington, D.C.

DEAR SENATOR HASKELL. It was an honor to appear before you and Senator Fannin here on April 2, 1973, regarding Senate Bill #268, and again Arizona should thank you both for your joint concern of what happens to our West as should everyone else if they realized that our aims are most compatible with theirs as we are interested in protecting that which makes us call it home.

I left the hearing without giving you the reference to "Grazing and Agriculture" as relate to "Areas of critical environmental concern." Please refer to lines 13 and 14, Page 47 of the original bill.

If "Areas of critical environmental concern" are areas designed for protection in their present state and if one accepts that Arizona, except for its roads, cities and other man-made permanent structures could be classified as 98.8% "significant undeveloped agricultural, grazing and watershed lands" the reason for concern over this verbiage is readily apparent.

*The fundamentals of the single problem appear to be these:*

At this moment all of the land planning clamour seems to me to revolve around one single concern: that is, *development of any kind* on our undeveloped lands.

The people who have tried to restrain development have approached it through devices to restrict buying and selling. Restrictions usually appear in the form of allowing subdivisions to be recorded unless certain criteria are met.

The opposition to attempts to frustrate such development comes from the persons who stand to gain from sale of the related land, improved or unimproved.

This forces the land owners to *fracture* the land regardless, and I doubt that all of the legal means available for such fracturing can ever be stopped when trusts, ownership in common or partition alone are considered.

These seem to me the directions that should be taken:

1. No restraint should be imposed on the buying and selling.
2. All land can and *must* be formally subdivided. It must be by recorded plat following reasonably acceptable adherence to the demands of terrain and drainage.
3. The limitation should be that the land may *not be developed with permanent structure* until certain minimum standards are met. It is my opinion that the most restrictive limitations on land use could not and should not exceed those that our federal agencies daily promote on our choicest lands (the parks, etc.).

These minimum standards could be set at the federal level.

The next step is to impose strong penalties for fraud, deceit and misrepresentation, and make them applicable to all parties on the sellers side as agents, Trust officers etc. These, of course, mean setting strong disclosure requirements.

*General Conclusions:*

This approach is very similar to the blue sky approach to stocks and bonds.

I personally believe that something must be done to assure the large landholder that he can sell his land, or most of it will be divided and re-divided before any meaningful action can result from the approach that a super-plan must come first.

Enclosed are more specific suggestions on this idea as they relate locally but which give more detail on the concept.

I know the limitations on my time, and that the demands on yours are many times greater; I intrude on your time because I feel so strongly that we have a very simple solution.

Respectfully,

ANDREW L. BETTWY.

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My thinking continues to turn away from any more broad criteria and instead to exploring the possibility of applying limitations on the use of the land. The barrier I repeatedly confront in that direction is that absolute limitations unless most futuristically and luckily schemed may prove to create a less desirable result than a purely conventional laissez-faire approach.

Nevertheless, this thought direction has led me to try to identify and state the complaints that are fundamental in the general displeasure now being voiced, and to visit with those which can bear the light of *realism* and objectivity.

These appear to me to be the complaints:

1. We should not grow in population.
2. We should not develop any more land.
3. We should keep all land in its pristine or present condition.
4. We should restrict development to those areas where it can be supported.
5. We should control the design of land before it passes into small parcel ownership.
6. We should stop fraud and deceit in the sale of land.

It is my belief that the first three complaints must be dismissed as being unrealistic.

Fraud and deceit can be brought into reasonable limits by legislation of simple Blue Sky requirements and unattractive penalties.

The numerous bills before the legislature today such as flood plain zoning; the requirement for a water statement; and enlarging the size of the smallest parcel that can be sold without restriction; and the present laws on non-formally subdivided land, all seem to be aiming at the wrong target. They appear to basically attack the right to buy and sell when they should be directed toward the control of use and development.

All of this led me to draft the enclosed concept of a law for a new type of subdivision. It was drafted as applying to presently privately owned land. If it is workable there it should then be applied to State lands. (Or perhaps if it has merits the SLD can pave the way by example).

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A PLAN PROPOSED BY ANDREW L. BETTWY

Our entire country appears obsessed with a "stop growth" "stop development" complex, and Arizona has some of the most vocal protagonists of this belief.

This proposal starts with the predicate that Arizona is going to grow from within and without and that development of some form or another is going to follow. It also assumes that it is illegal to unreasonably restrict people from either selling or buying land and making reasonable use of it.

The proposal is aimed at the *raw land* subdivisions which foreseeably seem to have little hope of becoming urban areas for very practical reasons, the most obvious being a lack of an adequate water supply. It is also directed to the problems that the current practices of subdividing of land have created which will probably guarantee that they will be undesirable places to live even when physical needs such as water are provided.

Three bad practices should be prevented in Ariz.:

1. Fraud on the consumer
2. Illogical rectangular carving up of the land
3. Premature and unattractive improvements

It is my belief that if fraud can be prevented and a sound subdivision scheme can be overlaid on any subdivided area and reasonable restraint placed on permanent improvements that the most seriously detrimental practices of today can be stopped and the cooperation of most of the large land owners can be had. This must be achieved in some manner or another, if any long term planning effort is to be converted into practice and actuality.

Failure today to have a workable scheme that will permit present large land holders to plan for orderly sale and disposal will continue to cause properties to be rushed on the market and in the most undesirable manner—the landowner will also, and it seems rightfully so, continue to frustrate sound planning efforts.

Present laws and some new proposed in our legislature (water statement—160 size limitation) attempt to handle these problems with laws which interfere with the buying and selling of real property. They fail in their purpose because they do not target in forthrightly on the ill they purport to correct—that ill is simply construction and improvements or developments on the land that are untimely and unattractive.

ARS 32-2101 Par. 29 is most responsible for the illogical unworkable small parcel land division:

ARS 32-2101 Par. 29 provides: "Subdivision" or "subdivided lands" means improved or unimproved land or lands divided or proposed to be divided for the purpose of sale, lease, or for cemetery purposes, whether immediate or future, into four or more lots, parcels or fractional interests. This paragraph shall not apply to the division or proposed division of land located in the State of Arizona into lots or parcels each of which is, or will be, thirty-six acres or more in area including to the center line of dedicated roads or easements, if any, contiguous to the lot or parcel.

This law says that 36-acre or larger parcels may be sold by a land owner without regard to any limitations placed on subdivided land.

This law further says that parcels smaller than 36 acres may be broken up into three or less parcels without regard to any limitations placed on subdivided land.

There is no law in Arizona that regulates the shape, size or appurtenant rights to parcels sold within those laws. No requirement on the seller must be met to provide for road, sewer, alley, telephone, electricity, gas easements: there is none to require the setting aside of a reasonable portion for schools and other needs that would result if the divided area in fact becomes occupied by its many owners.

It would appear that the most basic need of access is not a requirement either, if the area does not qualify as a "subdivision" or "subdivided land" under the law quoted above. ARS 32-2185.03 which deals with the subject of access states:

"No subdivided land may be sold without provision for legal access . . ."

In practice those laws serve no beneficial purpose but have the effect of creating a legal environment that almost insists that undesirable plans or no plans be made whatsoever for the time that the land might be occupied and used.

I am unimpressed by the magic of a 36-acre or larger parcel and believe it was intended to frustrate small parcel sales and thereby in a second handed manner prevent development and use. Perhaps also it says that an undesirable development on 36 acres will not be so obvious and it can be pretended that it is not there.

There are other features of those laws that promote such undesirable fracturing of the land surface with no plan or duty for the future. The seller need not pay taxes on the smaller parcels until he sells them; the parcel has less value for tax purposes because it has none of the necessary appurtenant rights of access easements and no plan.

My proposal in effect advances the idea that Arizona needs a law that almost dramatically opposed to those discussed above.

I propose that the authority and requirement for a second kind of subdivision be established. In order to have a phrase for communicating the second kind I call it "Recreation Subdivision" and for the same convenience I refer to our present formal subdivisions as an "Active Subdivision".

The law would provide that all breaking up of parcels smaller than 40 acres could only be done through the recording of a formal subdivision plat which would be first approved by the Arizona State Real Estate Commission.

The requirements for acceptance of the "Recreation Subdivision" plat would be that the plan be a sound "paper" design for the particular land, and provide for the necessary easements, dedications, flood control plan and community land needs if any when the subdivision was converted to an "Active Subdivision".

A Recreation Subdivision could be converted into an Active Subdivision when it met additional requirements of actual flood control, water, sewage etc.

The lot size in the "Recreation Subdivision" could not be less than two acres but could be further divided upon becoming an Active Subdivision and the "Recreation Subdivision" plat would pre-design and plan for the smaller size also.

During the time that the recreation status existed no permanent improvement could be made upon the lots nor could they be fenced.

Sale of the lots could only be made by a special deed from having a one-half inch title in red at the top "Recreation Subdivision Lot Deed" and following that in red pica type would appear a clear statement of the limitations on the use of that lot. The county recorder would be required to deny any deed that did not conform.

All one site and other advertising would require the identification of "Recreation Subdivision".

The law should also provide convincing penalties for violations and the penalties should be applicable to the seller, his broker, the agent, the escrow agent, the escrow company and any trustee. In my opinion the penalty should be not less than \$500.00 and carry a mandatory jail sentence for the second offense, including revocation of all licenses, and privileges to do business of the parties culpable and involved.

The proposal made here would do these things:

I. It would permit mobile homes, trailers, vehicular campers, ground campers and outdoor uses.

This may appear as a minus to some; however this is no worse and no different than the use our Federal and State Governments promote all over their finest land and water properties and over the entire Federal domain. There is no logic in an argument that would deny a private owner to do what its government induces him to do on those areas least capable of being able to support the traffic.

II. If the foregoing be a minus these must be viewed as pluses:

(a) There would be a free buyer-seller market.

(b) It would assure the best "paper" subdivision planning.

(c) It would assure that if the area were ever feasible to be occupied permanently there would have been prior provision for access, easements, flood control works, community needs.

(d) It would allow the owner a reasonable interim use of his property.

(e) It would put the emphasis on restricting use and not restricting sale.

(f) The buyer would be alerted to the limitations of the product.

(g) The fraud and the deceiver would be put in enough chance of jeopardy to force compliance.

(h) It would put the area on the tax roll.

(i) It would give the lots added value.

(j) It may gain support from the land owners for proper planning and implementation.

(k) It would take the present fear out of the owner that if he doesn't get rid of his lands now there is a law lurking in the woods to be born that will deprive him of the right to sell.

(l) It would assist in localizing much of the uses now being made illegally on Federal, State and private lands.

(m) It would put the people on the side of the local agencies which control growth.

(n) It would shift the pressures on the politicians so that only truly "active subdivisions" need be approved.

(o) The imaginary grid would guarantee a sound development in the future, and the land would, except for wisely placed roads, remain relatively unchanged but better protected.

My summary states only that our present laws are forcing the undesirable; laws that restrict land sales are either going to be too weak to be effective and are probably unconstitutional. We need to consider reasonable restrictions on use and subject to change when necessary standards are met.

Senator HASKELL. Thank you sir. We appreciate your being here. Mr. Max Klass, mayor of Glendale, I believe representing the League of Arizona Cities, is next.

Mr. Klass, nice to have you here.

**STATEMENT OF MAX KLOSS, MAYOR OF GLENDALE, ARIZ.,  
REPRESENTING LEAGUE OF ARIZONA CITIES**

Mr. KLOSS. Thank you, Mr. Chairman, Senator Fannin.

I have filed a prepared statement with the committee, it is brief and I would like to highlight it and add a few comments if I might.

Senator HASKELL. It will be in the record in full, plus your comments.

Mr. KLOSS. Thank you. I understand land at this point is the only Federal resource not regulated to a major extent. We know it is subject to depletion and waste just as other assets are and we are finding out to our consternation that there are no allowances as far as the general public is concerned when it is in fact depleted or wasted and sometimes the land is depleted without any true benefit being achieved.

I understand from the preface of the bill that it is desirable and the intention of the Senate and the Congress to establish a policy for the use of land. I think it is desirable from our point of view. I think it would be equally undesirable to involve the Federal Government in the regulations of land use in the State of Arizona to any greater extent than is absolutely imperative.

I am a land developer in a small way, not small enough, however, to avoid Mr. George Bernstein of the Universal Land Sales Act and some of his infernal questions and questionnaires and so on.

I believe regulation of subdivisions is vitally important, I think in Arizona that we have been remiss in not regulating this type of development. Yet, I find when this regulation takes place from a distance of 3,000 miles that requires literally pounds of paper to meet the requirements, I recall they had three questions they asked about the wind and rain and temperature and a catchall question, what about the weather? We answered the wind and rain and temperature, but they sent it back and said what about the weather? This is the sort of thing we wish to avoid in Arizona.

I would hope the people on the ground and in the State are the best judges of what local conditions are and the thing we must do is avoid dishonesty, especially when we are selling interstate, and I appreciate that.

I realize also that this bill contemplates a national advisory board, and it would involve representatives from the Department of Housing and Urban Development, for example. I wonder, however, having seen the strength already of the regulations in this area, that we are not asking for greater confusion when we in fact invite the Department of the Interior to create more regulations.

I appreciate in Arizona the carrot-and-stick approach may be necessary, and I think this is a carrot-and-stick approach, to paraphrase the language of the bill. We are given some time in which to adopt some proper regulations and if we don't basically do this in conformance with the Federal concept, Federal funding will be withheld. This is probably the only way it is going to work.

Now, knowing you to be from Colorado—is that true, sir?

Senator HASKELL. That's correct.

Mr. KLASS. I believe Colorado, especially in certain areas such as Boulder, seem to be way out front in the development of land use, at least concepts. They have taken some bold measures up there and I suppose they are still being evaluated in terms of whether they are going to be accepted by the public or not.

But when you attempt to limit the size of the city and fix wide green belts and take land for this use and not other use, this is something we couldn't begin to do in Arizona right now.

The League of Arizona Cities and Towns has been in the forefront of the attempt to get some meaningful land regulation legislation in the State of Arizona. For the last 2 years we have had bills before the State legislature and haven't had much success in getting them out of there. We are, in fact, involved in a heyday of land development and there are strong and vigorous lobbying efforts being made by land developers and homebuilders' associations to prevent the imposition of any land planning legislation upon the current activity of those developers.

I can, as I said before, I can understand a reluctance to see what they believe to be their judgment replaced by the judgment of some bureaucratic committee. Yet we recognize that at the city level there are 65 cities and towns that are members of the league and 20 other more unincorporated cities of some size, each of them have land planning problems and each are faced with adjacent Indian reservations, Federal land, mining reserves and so on. There are no statewide guidelines and presently there is no apparent offering of any.

We have two major bills before the legislature this year, one is an enabling legislation for cities to do some meaningful land planning. It is pretty well amended now into a study bill and the other bill which is the State land planning legislation has become amended into nothing more than an effort to appoint some committees at the Governor's direction and report back at some future year.

Obviously we have to do better in the State of Arizona or we are going to have some regulations from some other place and I will be the first to admit it. I don't know what more we can do from the city level to achieve this kind of legislation in the State of Arizona.

We have our hands full in a variety of respects in the legislature because we are faced with this population growth which is imposing problems on us. We seem to be crowding other people in our legislative efforts. We are getting a certain amount of attention and resentment. Our legislative goals, we can only reach one at a time, and I would be hopeful if the Congress goes forward with this bill, S. 268, maybe this will provide the necessary incentive to the State government to get on forward with this State planning legislation.

I would hate to see them get carried away to the point where they would take the authority away from the local level, as conceivably they might if they get caught up in the spirit of this bill, because after all if there are any diverse conditions to be found among the League of Cities and Towns, I can absolutely guarantee you among the cities and towns in the State of Arizona it is just about as diverse as you can get.

The conditions of Phoenix, Ariz., are so widely divergent from communities such as Fergonia, to name one, and a multitude of others. It is a very difficult situation for us. We are faced with a

problem here, and I don't think it is peculiar to Arizona, it is sort of a level of government theory. The officials seem to think the only level of government that works honestly is the level they happen to be operating. Once you get to the State legislature you distrust those below you and the Federal Government and so on up the line.

I believe the cities and towns wish to work with the Federal Government and the State in regional land planning, retaining, however, the right to control, because as I say, our conditions are so divergent from one part of the State to the other.

I had the good fortune to hear part of Mr. Bettwy's remarks, and that part that I did hear I subscribe to. I think it is unfortunate that we don't have more input from his particular department in our legislative efforts that we have going on right now. His role is somewhat technical and I think his philosophy would be greatly helpful to you.

I am particularly interested in the aspect that the Indian lands are excluded from this bill. He may have mentioned that some 27 percent of our land is in Indian tribal land. I don't see how we can intelligently legislate policywise concerning land use in the State of Arizona when we exclude that large percentage, and not only that, there are real Indians out there, and they are vitally concerned with what is happening to them.

For example, in Scottsdale, just to the east of us, Senator Haskell, the development is taking place right now up to the fenceline of the reservation. It is a line of demarcation that is just about as clear as anything you will find anywhere in the United States. Aside from the Community College located across that line, there is not that much going on out there. It is just as if somebody has thrown up a visible wall. In the path of rampant development, and good development, I might say.

So you just can't exclude the Indian question in talking about State land policy.

We are concerned that the recent U.S. Supreme Court decision concerning McClannahan. He is going to complicate the problem. He was an Indian living on the Indian Reservation. He was elected to the board of supervisors and a suit was brought because he didn't pay any taxes. It was held that he didn't have to pay taxes because he lived on an Indian Reservation. Yet he was elected to the board of supervisors in Apache County.

Certainly, in the context of the present day, in the context of militant attitudes and this growing urbanization encroaching on Indian lands, this has got to be a problem that must be dealt with.

I think the committee should look seriously at some approach to involve, either on a representative basis or through the Indian tribes themselves, some basis to get some input into this bill that would lead to the end that the Indian lands would not be excluded from this attempt to establish a Federal land policy and to legislate on land use in the State of Arizona.

As I said, I filed my prepared comments with the committee. I appreciate the opportunity to be heard. I realize you heard a number of witnesses and I don't wish to be redundant. If you have any questions I will attempt to answer them.

[The prepared statement of Mayor Klass follows:]

TESTIMONY BEFORE SENATE INTERIOR COMMITTEE  
ON S. 268, LAND USE POLICY AND PLANNING ASSISTANCE ACT OF 1973

April 2, 1973  
Phoenix, Arizona

Mayor Max Klass of Glendale, President of the  
League of Arizona Cities and Towns

Mr. Chairman and members of the Committee, we appreciate the opportunity to appear before you today to testify on Senate Bill 268, Land Use Policy and Planning Assistance Act of 1973. As President of the League of Arizona Cities and Towns which represents all sixty-five incorporated cities and towns in this State, I wish to commend the members of the Senate who are instrumental in introducing the Federal legislation before us today.

As one of the most rapidly-growing states in the nation, Arizona local officials have long been aware of the critical need to establish land use policies and plan for growth in order to provide a liveable urban environment for present and future residents. It is our feeling that a recognition of the need to adopt policies and plan for present and future land use is essential at every level of government. Consequently, we endorse the basic concepts of this bill as it relates to establishment of a national policy and assistance to the states in developing and implementing land use programs.

Perhaps a brief recount of the status of land use planning in Arizona from a local viewpoint will more clearly explain why we support such Federal encouragement and assistance to our State government. For many years, Arizona grew in what is probably best described as topsy-turvy fashion. As the urban areas of the State began to develop and grow at such an incredibly fast pace, local government, specifically the major cities in our State, were in the forefront of utilizing planning mechanisms to place at least some constraints on how land within incorporated cities and towns was developed. To that end many

cities have adopted comprehensive long-range plans so that through our zoning powers, we can determine what is best for our communities.

Although proposals have been before the State Legislature for State land use planning for two years, the Legislature to date has failed to enact any substantive legislation. This year a bill is before the State Legislature which in its original form would, in our opinion, create both an effective mechanism and needed policies for State land use planning. However, the bill has been amended after vigorous lobbying by both land developers and homebuilders and now provides basically for a study committee. The net effect of the amendments is that the measure will be studied for still another year.

To a large extent in the State of Arizona, the cities have been "going it alone". For the last three years, the cities and towns have been urging passage of planning enabling legislation to give local government in this State the necessary tools to deal more effectively with land use planning at the local level. We feel that such planning enabling legislation is essential for us to provide a planned urban environment for our residents. This bill has also seen rough sailing in the Legislature and again has been opposed by land developers and homebuilders' associations. We were encouraged by the passage of this bill by the State Senate this year; but the bill has an uncertain future in the House.

This brief recount of the history of land use planning in the State of Arizona brings us to one of our areas of concern with Senate Bill 268. Since the State Legislature has failed to enact necessary legislation to deal with land use planning, the question is, will they all of a sudden become imbued with the spirit of the times and assume the role assigned to the State by this bill. We don't have any suggestions regarding an alternative to the role assigned

by this bill to the State, however, we did feel it necessary to voice our concerns to the Committee. We do not want to give the impression that there has been no action at the State level in Arizona on planning. In the late 1960's the Legislature created the Department of Economic Planning and Development which has made some real strides in the area of planning for our State. This agency has also performed a real service to many local governments by providing planning assistance. But in our opinion, much more needs to be done.

As you undoubtedly know, there is a psychological phenomenon which seems to affect officials at all levels of government. We call this phenomenon a level of government theory. What the theory really boils down to is that officials tend to think that only the level of government in which they are involved works efficiently and responsibly. It's an interesting theory, but speaking for local government officials, I feel that we are becoming more and more aware that there are many problems which far exceed municipal boundaries, and that there is a real need to recognize certain problems as regional, statewide, or for that matter national problems. Certainly it is our feeling that land use planning falls into this category. We need to encourage efforts at all levels of government to achieve a coordinated response.

Once the need for a coordinated response to land use planning is recognized, then our other major concern with the bill before us today can be placed in its proper perspective. Arizona is in a rather unique situation in that at least 27 percent of the land in our State is Indian tribal land. We are quite concerned that this land is specifically excluded from the provisions of this Land Use Policy and Planning Assistance Act. We believe the Indian land problems should be addressed within the framework of this bill. To do otherwise would not resolve our problems in this area in Arizona. For a long

time, we have simply chosen to ignore, or perhaps a better term would be "back away" from this problem. However, excluding Indian lands from the provisions of this bill can only mean that we will not have effective land use planning for the entire State. Once again, we don't know what the solution to this problem is or how it can be worked out, but we do feel it must be a Federal solution since both State and local government have been totally preempted in this area.

In conclusion, we applaud your efforts at serious consideration of this Land Use Policy and Planning Assistance Act and will look forward to the positive results of such a bill if passed by Congress. With concerted action at all levels of government and a true coordinated response to present problems in this area, perhaps we can reach the common goal of all levels of government - to provide an intelligently and comprehensively planned environment with pleasant living and working conditions for all citizens of the United States.

Senator HASKELL. Thank you very much indeed. One thing that has come out here today shows the real benefit of having regional hearings, and that is that you are not the only one who talks about Indian lands. There have been several witnesses who are concerned about their exclusion from the bill.

I am sure, and obviously Senator Fannin will speak for himself, but we will welcome any suggestions or techniques for including Indian lands within the scope of planning. Apparently, I don't know, perhaps New Mexico has as much or more Indian lands, but maybe Arizona has the—well, I will let Senator Fannin give you that statistic, but this is something very important and we would welcome a suggestion for a technique for including them.

Senator Fannin.

Senator FANNIN. Thank you, Mr. Chairman, and we are vitally concerned about this issue, Mayor Klass, and we are working on the matter and intend to continue doing so, hopefully, we can come up with some sort of solution before the bill is sent to the floor of the Senate.

It is not encouraging at the moment, because the committee is anxious to send the bill forward, but we will continue to work on the Indian problem and we will have additional testimony here today.

I commend you, Mr. Mayor, for the leadership you have given as the president of the Federation of Cities and Towns. I am aware of your great interest in trying to obtain equity both in the legislature here and also in the Congress. It is very important to us because I do feel if we are going to be successful in having a good land use policy program, we must have the support and the cooperation of all people in the government and the community.

I do have one area of disagreement with you. When you say we call this phenomenon, the level of government theory, what the theory boils down to is that only the level of government at which they are involved is the most efficient. I would say we work at the most inefficient level of all in the U.S. Congress. [Laughter.]

Senator FANNIN. Thank you.

Mr. KLASS. Thank you, Senator Fannin.

Senator HASKELL. Thank you.

The next witness is Arlo Woolery, Arizona State Department of Property Valuation.

#### STATEMENT OF ARLO WOOLERY, DIRECTOR, ARIZONA STATE DEPARTMENT OF PROPERTY VALUATION

Mr. WOOLERY. My official concern with Senate bill 268 is its potential effect on the property tax base of the State of Arizona. I also have the same unofficial concerns as any other interested citizen of the United States. Being allotted 10 minutes to speak on a 55-page bill works out to about 11 seconds of commentary per page, so I will abbreviate my remarks in a rather general fashion, and make a few specific references to items within the bill.

On page 3, lines 10 through 19, the wording suggests that one of the purposes of the bill is to develop a land use policy which will aid in the development, generation, and transmission of energy. To the extent that Senate bill 268 actually develops a plan responsive to this purpose, I am wholeheartedly in favor of the bill. The utilities of

Arizona constitute about 20 percent of our property tax base. Anything that inhibits their growth inhibits the growth of this important segment of our property tax base and the economic growth of our State overall.

Page 7, lines 5 through 8, calls for the exchange of land use, environmental, economic, and social data, and information among all levels of government. The State of Arizona has already established the Arizona resources information system which is carrying out much of the intent of this particular section of the bill. I certainly support this concept, and would make available anything within the Arizona resources information system to anyone charged with responsibility for developing a similar program at any level of government.

On page 13, lines 18 through 24, the inclusion of advisory members from State governments is well conceived, and will bring the necessary local point of view into focus in the national plan.

The concepts contained in pages 17 through 22 on statewide land use planning processes have already been adopted by the State of Arizona, and most of the detailed items in these pages have become part of the data base for the Arizona Resources Information System.

The appeals procedure, outlined in pages 25 and 26 of the bill, is an important and indispensable part of the overall program. There must be an avenue of administrative appeal prior to full judicial review of items of disagreement between owners of certain property rights and policies which impose controls upon their freedom to exercise those rights of ownership.

There are some things in the bill which do concern me—for instance, semantic ambiguities such as, “more than local significance”; “adverse impact on environment”; and “adjacent non-Federal land”. While each of the individual words within these phrases has a specific and generally well-accepted and well-understood meaning, the combination of words within these phrases falls into an undefined area. Does “more than local significance” refer to an area within a city? within a county? or within a State? Is the definition of “adverse impact upon environment” to be based on information supplied by the Sierra Club? or the lumber industry? And just what are “adjacent non-Federal lands”? The way the bill reads, this could be all non-Federal land in the United States. If that is what is meant, why not just say that the provisions of this bill apply to all land in the United States—period? A lot of future discussion and controversy could be avoided by such a straightforward declaration, if that is what is really intended.

Legislation of this type, since it is national in character, paints with a very broad brush. In my opinion, it is most important that land use planners recognize that Arizona open-pit copper mining is not West Virginia stripmining for coal. The requirements for environmental protection and restoration certainly must be formulated with this difference in mind. Our Arizona mining industry constitutes more than 15 percent of Arizona's property tax base. Recent proposals by the Environmental Protection Agency could wipe out much of this taxable value. To the extent that the EPA representative on the National Advisory Board is able to influence land use policy matters, our Arizona mining industry faces a compounded hazard with passage of Senate bill 268. Nowhere in the bill do I find it even suggested that the representatives from our Nation's basic industries be included among even those eligible for appointment as advisory members to the Board.

Utility installations in low-population density areas of the Southwest are not subject to identical restraints as similar installations in high-population density areas of the eastern seaboard. Requiring underground services to homes in high-population density areas may make a great deal of environmental sense, and may not be economically injurious to the utilities in those areas. However, in low-population density areas, the same requirements may make neither good environmental nor economic sense.

Page 5 of the bill outlines congressional findings, and restates the historic right of American citizens to enjoy maximum freedom and opportunity, and for all citizens to live and conduct their activities in locations of convenience and personal choice. After more than 60 years of statehood, Arizona still finds itself with a population which, by and large, came from somewhere else. No land use plan should operate in a manner which would foreclose our citizens the right to move freely from State to State. If the Congress truly believes in its finding as stated in paragraph (h) of page 5, then the right of all citizens to move freely from State to State must be a clearly stated congressional guideline for those who administer the provisions of this legislation at every level of government.

Senator HASKELL. Thank you very much, Mr. Woolery, on your comment of the difference between the open pit copper mining in Arizona and the strip mining of coal in West Virginia. I would like merely to mention that there is a separate bill pending before the Interior Committee that will deal with surface mining in general. I just wanted to mention that to you because that would be treated as a separate subject matter and I think most members of the committee are quite aware of the difference between the two subject matters.

But your presentation was extremely constructive and I would like to see somebody come and say parts of it are good and parts of it are bad. It is a little discouraging sometimes when somebody comes up and says it is all good or all bad.

Mr. WOOLERY. I hope the information about the bill to differentiate between strip mining and open pit copper mining is made available to the staff down to the last clerk.

Senator HASKELL. We haven't adopted the bill yet.

Senator FANNIN.

Senator FANNIN. Mr. Woolery, we are very pleased to have you here this morning. You have made an excellent statement bringing out some of the benefits that will accrue and also some of the hazards you are concerned about. We hope that through the legislative history that we can clarify some of these points. I agree with you that the language does not do so.

I also want to comment that we are very concerned about the mining bill and also the overkill that might come about if we are not handling it properly, if we do not handle it properly. We are trying to get some of the Senators to visit some of the open-pit mines to see what is involved. I share your great concern, because if the legislation went through as it is now written or has even passed the House, our mining industry would be in very serious difficulty.

To give you an idea as to what it would mean, you state 50 percent of Arizona's property tax base, it would mean billions of dollars lost to our national economy. We have bills that state if the bill went through—talking about the strip-mining bill and also incorporating

general mining of hard minerals, besides coal—that it could result in the import of minerals to the extent by 1980 of \$25 to \$30 billion a year. So you can see the seriousness of that.

I do thank you for calling it to our attention again.

Mr. WOOLERY. Thank you.

Senator HASKELL. I am told that I must hold by the television station, so we will pause for a moment and then we will go again.

[Recess.]

Senator HASKELL. I am now told that we can proceed. I do want to announce that we will recess at 1 o'clock and reconvene at 2:30 p.m.

The next witness is Stephen Williams of the Arizona Wildlife Federation.

#### STATEMENT OF STEPHEN WILLIAMS, DIRECTOR OF THE ARIZONA WILDLIFE FEDERATION

Mr. WILLIAMS. Mr. Chairman and Senator Fannin, my name is Stephen Williams. I am the chairman of the National Legislation Committee and a director-at-large of the Arizona Wildlife Federation, a State affiliate of the National Wildlife Federation. I speak on behalf of the Arizona Wildlife Federation's 5,000 members. Please accept these remarks and the attached amendments as part of the official hearing record.

I would like to thank the committee for conducting field hearings on the subject of land use planning. Having neither the time nor the financial wherewithal, I, like many other conservationists, am unable to appear before your committee hearings in Washington. I deeply appreciate the opportunity to speak before your committee today on my own homeground.

As an organization devoted to seeking the wise use and enhancement of this Nation's fish and wildlife resources, the Arizona Wildlife Federation is exceedingly interested in proper land use and land use planning.

The reason for this is an elementary one. Land is the basis for wildlife habitat, and deprived of proper habitat, wildlife ceases to exist.

Land is a finite resource. The wildlife habitat derived from this land, therefore, is also finite. A productive habitat furnishes wildlife variables necessary for nourishment, reproduction, shelter, escape and general maintenance.

People who labor under the conception that wildlife disturbed by man's activities simply migrate onto adjacent lands for reestablishment, labor under a gross misconception. Once committed to use for a highway, electrical powerplant or subdivision, land becomes unable to support beneficial uses of wildlife.

Congress has recognized that efficient land planning is in the national interest and S. 268 is a step in the right direction toward achieving that goal.

S. 268 would serve primarily to assist the States in developing land use programs for non-Federal lands under their jurisdiction while coordinating planning and management of adjacent Federal lands.

Since approximately 71.50 percent of Arizona is owned or held in trust by the Federal Government, the Federation realizes that it must work with such agencies as the Bureau of Land Management, National Park Service, Forest Service, Bureau of Indian Affairs, and Bureau

of Reclamation to insure the proper management of these lands. It does this now.

The remaining 28.50 percent of Arizona is either State trust or private land. With the passage of S. 268 not only would the Federation work with the State land department and private interests on a continuing basis, but it would be working with the new State land use planning agency.

This collaboration is indispensable if we are to insure that wildlife values are given proper recognition in any land-planning consideration. For this reason we are pleased to find numerous provisions in the bill that allow for public input and participation in the formation of guidelines, rules and regulations for the administration of the statewide planning process.

Even with these references to public participation, wildlife interests could be represented in other meaningful ways by this bill.

The advisory council to the State land use planning agency should not be composed of a representative number of chief elected officials of local governments in urban and nonurban areas, as so stated. These elected officials could easily be chamber of commerce types who are more interested in increasing their local tax base than in adhering to a land ethic. Rather, the council should be composed of representatives of special interest groups from the general public, like campers, hikers, hunters, fishermen and the bird watchers.

The National Advisory Board on Land Use Policy should have a representative from the Department of the Interior, Bureau of Sport Fisheries and Wildlife.

The ad hoc Federal-State joint committees should also have members representing wildlife and conservation interests.

One section deleted in this year's bill that was included in last year's S. 632 is that of sanctions. States not assuming responsibility for land use activities occurring within its boundaries should be denied grant-in-aid money, airport development funds and Federal aid highway funds. Instead of phasing the withholding of 7 percent, 14 percent and 21 percent of these funds over 3 fiscal years, withholding should be more like 50 percent, 60 percent and 70 percent to impress upon the errant States the importance of land planning.

Arizona has nothing to fear in this regard due to the initiative of a handful of progressive, environmentally oriented legislators who have sought passage of land use planning legislation at the State level for the past 2 years.

It does no good, in our opinion, to withhold land and water conservation fund moneys. The amount of these moneys received is not nearly as great as the others, especially in light of recent budget cuts. Conservation programs, unfortunately, are always the first to have their funds cut since they are of such low national priority.

The federation supports financial sanctions in S. 268 to hasten States, less progressive than Arizona, toward land use planning.

The federation feels that section 305, Federal review and determination of grant eligibility, is one of the most important and desirable sections of the bill and should be retained intact. The reviews of State land use programs by the heads of the various Federal departments, especially the Administrator of the Environmental Protection Agency and the Secretary of Housing and Urban Development, will assure that the States do indeed consider environmental and social land use considerations.

In title V, under the definition of the term "areas of critical environmental concern", all of the areas listed should remain. The federation would also include three others. They are: permanent and intermittent stream channels and riparian environments; major aquifers and aquifer recharge areas; and habitats of rare and endangered wildlife species and other wildlife species having recreational, esthetic, and scientific value.

In Arizona, permanent and intermittent stream channels and riparian environments are truly "areas of critical environmental concern." Riparian environments are the most distinctive, most productive, most limited and most irreplaceable wildlife habitat type in Arizona.

The Lower Colorado region-Comprehensive Framework Study, appendix VI on Land Resources and Use, dated November 1970, states that "About 100,000 acres of this vegetation type does occur along the main Colorado River in southwest Arizona and along the Salt and Gila Rivers in blocks of significant size." This acreage is shrinking every year due to man's intrusions via channel improvements, flood control and drainage projects, and water salvage and delivery projects.

The Arizona Legislature attempted this year to offer a degree of protection to these areas, but failed because of unrelenting pressure from local flood control, irrigation, and drainage districts.

By specifying stream channels and riparian environments as "areas of critical environmental concern" it is our hope that the State, in its land-use plan, will pay particular attention to these areas and plan them for complete protection.

Major aquifers and aquifer recharge areas should also be planned for nonuse. In Arizona, where underground water resources are mined, those recharge areas which have the potential for helping alleviate overdrafts deserve special attention and protection.

The welfare of rare and endangered species and of other wildlife species having recreational, esthetic, and scientific value is dependent upon the land. As I stated earlier, deprived of proper habitat, wildlife ceases to exist. Wildlife is an integral, beneficial, and desirable part of man's environment. Land use planning, conducted with the assistance of professional wildlife biologists and lay people who have an interest in wildlife, will assure that the Nation's wildlife resources are given their rightful consideration.

Thank you very much.

Senator HASKELL. Thank you, Mr. Williams, for your statement. I see you have actually attached to your statement specific statutory language changes and that will be in the record at this point.

[The proposed amendments follow:]

ARIZONA WILDLIFE FEDERATION

PROPOSED AMENDMENTS TO S. 268

(Reference to printed bill)

Page 11, line 14, after "Transportation" insert "Interior, Bureau of Sport Fisheries and Wildlife"

Page 18, line 11, after "Growth" insert "and Analysis of the Carrying Capacity of Ecological Systems for Various Population Levels and Types of Development."

- Page 19, line 10, after "Resources" insert "Including Citizen Public Interest Organizations"
- Line 23, after "Personnel" insert "And Citizen Public Interest Groups"
- Page 22, line 8, strike "Chief Elected Officials of Local Governments in Urban and Nonurban Areas" and insert "Members of the General Public Representing Various Special Interest Groups."
- Page 24, line 15, after "Coastal Zone" insert "Permanent and Intermittent Stream Channels and Riparian Environments"
- Page 26, line 4, after "Interest" insert "Or Person"
- Page 38, line 11, after "Require" insert language from S. 632 in the form of Section 307, paragraphs c, d and e.
- Page 41, line 3, after "Agencies" insert "And Affected User Groups"
- Page 44, line 23, after "Hearing" strike "Or Provide an Opportunity for Such a Hearing"
- Page 45, strike lines 2 through 5.
- Page 46, line 23, strike "Irreversible" and insert "Significant"
- Page 47, line 3, strike "Subject to the State Definition of Their Extent"
- Line 9, insert "Permanent and Intermittent Stream Channels and Riparian Environments."
- Between lines 17 and 18, insert "9. Major Aquifers and Aquifer Recharge Areas. 10. Habitat of Rare and Endangered Species of Wildlife and Other Wildlife Resources of Recreational, Esthetic and Scientific Value." Renumber to conform.
- Line 22, after "Impact" strike "And Major Facilities on Non-Federal Lands for the Development, Generation, and Transmission of Energy."
- Page 48, line 15, after "Pollution" insert "The Potential for Creating Adverse Affects on Wildlife Populations"
- Amend title to conform.

STEPHEN WILLIAMS.

Senator HASKELL. Senator Fannin.

Senator FANNIN. Thank you, Mr. Chairman. I haven't any questions.

I do want you to know that the sanctions referred to on page 3 were eliminated on the floor of the Senate so S. 632 did not contain sanctions as it passed the Senate and as it was originally considered in the committee this year under the new bill.

I don't want to take the time now, but if you could define riparian environments, I would appreciate it because that is a difficult terminology.

Mr. WILLIAMS. I will be glad to.

Senator FANNIN. Fine, if you would do so I would appreciate it.

Senator HASKELL. Would you tell us your home address, Mr. Williams?

Mr. WILLIAMS. 92 West State Avenue, Phoenix, ZIP code 85021.

Senator HASKELL. Thank you very much, sir, and thank you for your statement.

The next witness will be Patricia Overby of the Sierra Club.

#### STATEMENT OF PATRICIA OVERBY, REPRESENTING THE SIERRA CLUB

Ms. OVERBY. Mr. Chairman, Senator Fannin, my name is Patricia Overby; I live at 1732 East Pickrell Drive in Phoenix. I have been actively involved in this community's environmental affairs for the past 2 years and have been called upon today to testify on behalf of the Sierra Club.

The mood of the recent United Nations Conference on the Human Environment was summed up by an observer from Science and Public Affairs—the bulletin of the atomic scientists—with a quote from the address of anthropologist Margaret Mead:

"This is a revolution in thought fully comparable to the Copernican revolution by which men were compelled to revise their whole sense of the earth's place in the cosmos. Today we are challenged to recognize as great a change in our concept of man's place in the biosphere. Our survival in a world that continues to be worth inhabiting depends upon translating this new perception into relevant principles and concrete action."

And I would like to draw your attention to that last phrase, "translating this new perception into relevant principles and concrete action."

Following Dr. Mead's formula, we might think of the Findings, section 101a, which introduces this bill as hopefully representing at least the beginnings of a new perception, which we are to translate into relevant principles and concrete action. Noting that principles, or policies ought to precede action, it is encouraging to find the second section of the bill, section 102a, entitled "Declaration of Policy." But here the Federal Government is called upon only to assist and encourage the States to develop a land use policy, to promote inter-governmental coordination and other systematic methods for developing a policy, and to support wise and intelligent land planning.

In short, it is our policy to develop a policy. We search in vain for an enumeration of the reasonable and flexible Federal requirements for the guidance of individual States, or a specific definition of an adequate State land use program, section 103c. We are simply told in section 502a that the Executive Office of the President shall issue guidelines upon consideration of comments from various Government boards and agencies, and from State and local governments. No mention is made of public input in this context.

Returning to Dr. Mead's formula, it would seem we have jumped from perceptions to procedures with barely a nod at the principles, policies and guidelines which ought to have come in between.

I submit that this is no time to cut and run: the crisis with which S. 268 purports to deal goes to the very core of our existence—the way we think about and relate to nature and to one another. Our pioneer habit of thinking in terms of unlimited resources has pushed us at full speed into the brick wall that represents the natural limits of the earth. We must now deal seriously with all the relevant physical and biological factors as well as the social consequences that form from them.

This is the very nettle that S. 268 fails to grasp. Its "let George do it." The guidelines will be the single most critical factor in determining the acceptability of all the procedures and structures outlined in the bill, yet the public is being asked, in effect, to embrace the latter while crossing its fingers about the former.

I suggest another approach—somewhat less expedient, perhaps, but more democratic. Rather than allow these critical guidelines to be formulated by a distant, reclusive and impersonal bureaucracy, we should see them hammered out in full-scale, public debate by the representatives of the people: the Congress.

Just as a good citizen is a man who adheres to the ideals of his community as expressed in its laws and conventions, once we have taken the advice of Aldo Leopold to extend our sense of what is "community" to include the land, we must then formulate laws and conventions that will define the good citizen in the new context.

This is the responsibility of the legislative branch. Specifically, the Congress needs to decide where the true public interest lies in matters such as floodplain zoning, estuarine area protection, maintenance of maximum natural storage capacity on watersheds, or the location of highways and interchanges. To combat the even more vexing problems of urban land use, attention must be paid to questions revolving about the development of public facilities—parks, waste treatment plants, schools, libraries, airports, major roads—and urban services—solid waste disposal and recovery, traffic engineering, air and water quality control, police protection. Above all, the haphazard residential development that time and again impacts these facilities and services must also be looked at very closely.

True public costs and benefits of all kinds—social, biological, physical and economic—must be assessed in every instance, conclusions drawn, and firm, enforced guidelines for State action formulated on that basis.

To refer again to Dr. Mead, the principles upon which such a significant revolution in public thought will be based should come from the people themselves, or from their directly elected representatives. This approach offers the best hope of assuring that the present imbalance between economic and environmental concerns will be redressed and that a clearer vision of an environmentally sound life patters will emerge from the new perceptions of the 1970's.

Attached is a marked copy of S. 268 for the record, and for the use of the chairman, indicating suggested changes in the text of the bill. It is not in legal language.

Now, I have one final note. If the committee does not feel confident enough of public sentiment to deal with the issue of firm guidelines in a substantive way, I feel sure the members of this community stand ready to help. I offer to assist other civic groups and members of the business and professional community in instituting a series of public forums aimed at defining the public interest on all weighty matters of general concern, and forming guidelines and mechanisms to ensure those interests without unnecessary interference in the rights of the private individual.

I move, Mr. Chairman, to add that note as a result of my experiences serving on two citizen commissions appointed by the city that have to deal with land use planning in a peripheral way. We know the difficulties because we have to deal with them.

I think the public is interested in having something to say. Everyday I talk with people who have something to say. As the States are calling for more opportunity to have input, I would like to call for more opportunity to have public input, especially in this critical point about establishing principles upon which this whole mechanism would run.

Senator HASKELL. Thank you. I would like to address myself to your last comment. The bill, as introduced, of course, is a draft. We will in the next couple of weeks take up the suggested amendments. One of the suggested amendments would permit a number of years, I forget the exact number, in which actual guidelines would be developed. This would envisage, assuming the amendment is adopted, I don't know whether it will or will not be, assuming this is adopted, this will permit for a period of years to allow a citizen input and develop national guidelines in the broadest sense of the term. Because I don't

think any of us want the Federal Government to get into the zoning business. But I do think we need some general guidelines so that we all know we are going down the same road.

I just wanted you to know that.

Ms. OVERBY. Thank you.

Senator HASKELL. Thank you for your statement and thank you for including a copy of the bill with your suggestions and probably we all appreciate they are not in lawyers' language.

[The marked up bill referred to was retained in the committee files.]

Senator HASKELL. Senator Fannin.

Senator FANNIN. Thank you, Mr. Chairman. I have no questions.

Senator HASKELL. The next witness is Mr. Paul J. Smith president of the Salt River Pima-Maricopa Community Council. Mr. Smith, it is a pleasure to have you with us today.

#### STATEMENT OF PAUL J. SMITH, PRESIDENT OF THE SALT RIVER PIMA-MARICOPA COMMUNITY COUNCIL

Mr. SMITH. Senator Haskell and Senator Fannin, I appreciate the opportunity to stand before you and present the views of our community.

I am Paul J. Smith, president of the Salt River Pima-Maricopa Community Council. My address is Route 1, Box 346, Scottsdale, Ariz., ZIP code 85256.

It is noted that in S. 268, Indian lands are not included and from testimony given here this morning from the Governor of our great State, and from others, they are concerned with Indian lands and their development that should be included in S. 268.

Our community is surrounded by three cities in the State of Arizona, Scottsdale, Mesa, and Tempe, and to the north a new city is being developed, Fountain Hills, developed by the McCullough Corp.

The Salt River community was concerned many years ago about the development of guidelines for land development policies for bringing about the most desirous living conditions and improvement of welfare of the people of the community. As a result of this we hired Simon Biser Associates who is one of the top planning consultants in the United States to work out a comprehensive general development plan for the Salt River community. I would like to submit this document for the record so that you will be able to review it.

Senator HASKELL. It will be received.

[The plan referred to above was retained in the committee files.]

Mr. SMITH. This plan was submitted in June of 1970, and through the workings of the community council it has carried out to the letter the plan that was submitted. There is a great deal of work to be done in connection with the plan but we have been able to convey to our people the importance of planning and zoning for our lands.

We concur in the philosophy of S. 268, but cannot endorse it unless Indian communities are brought in and can receive the benefits. We have always been ready and willing to cooperate with our neighboring communities and with the State of Arizona, but in order to coordinate our efforts we must be brought in at the initial stages of planning but not after plans have been formulated and handed to us and told here is your plan.

I would point out under section 107 of S. 268 our reservations must be included if we are expected to cooperate and also any planning that goes on in the State of Arizona.

I will submit later a written statement for the record, but I was called as a last minute witness and I didn't have time.

Senator HASKELL. Certainly, the record will stay open for a week and your statement will be received.

Mr. Smith, I would like to get—maybe you are in a position to do so now, I would like to have a specific recommendation. What S. 268 does, it says private lands will be planned, both bills say they will cooperate with each other to the end that there is no inconsistent usage. Would this technique sound reasonable in the case of Indian lands, or would you have some other thoughts in mind?

Mr. SMITH. Just from past experience, our community has pretty much coordinated planning with the city of Scottsdale since they are our closest neighbor. For us to continue to cooperate with Scottsdale and for us to fit into the overall package that the Secretary of the Interior might propose, in order to put together the legislation, I think that we could work jointly using both methods.

Senator HASKELL. In other words, be able to coordinate both with the Federal Government on public lands and with the State on State lands, because this is the technique worked out between the two of them. This sounds like the most practical way and I am glad to hear you say so.

If you have any other ideas, please let us have them.

Mr. SMITH. I don't have any other ideas right now. I am sure you and Senator Fannin are aware that our plans on Indian reservations have to conform to the Code of Federal Regulations. So this will be another aspect to be considered.

Senator HASKELL. Also, if it isn't working, the Code of Federal Regulations can be changed, as I am sure you are aware.

Mr. SMITH. We have been trying to get that Code changed for many years.

Senator HASKELL. Senator Fannin.

Senator FANNIN. Thank you, Mr. Chairman and Chairman Smith, thank you very much for your testimony this morning. It has been very helpful and I am aware of your development program that you have furnished to me and my staff and given us an opportunity to study the plan. It is very impressive and you are to be complimented for your straightforwardness in outlining just what you think can be done in support of such legislation.

I especially appreciate your desire to have the Indian lands included in the planning processes. I couldn't agree with you more because I feel if they are not included, it would be very unfair to our Indian people.

You have provided splendid leadership and you continue the type of leadership that we are needing, both at the level at which you serve and throughout the communities of the State and the Nation. I certainly appreciate your appearance here this morning.

Mr. SMITH. Thank you.

Senator HASKELL. Thank you very much.

The next witness will be Ronald Carmichael, of the Central Arizona Homebuilders Association. Nice to have you with us.

STATEMENT OF RONALD W. CARMICHAEL, ESQ., REPRESENTING  
THE CENTRAL ARIZONA HOMEBUILDERS ASSOCIATION

Mr. CARMICHAEL. Thank you. I am Ronald W. Carmichael, attorney at law with the law firm of Carmichael, McClue & Stephens, and I represent the Homebuilders Association of Central Arizona who build approximately 85 percent of the homes in the metropolitan Phoenix area and a substantial percentage of the remainder of the housing throughout the State.

We are intimately involved in the planning process and have been for many years. We have come to recognize that the traditional processes of planning are not totally adequate to best today's needs for more valuable and appropriate use of land.

However, we do not think that the concept of avoiding the local government or taking any powers away from local government without a serious consideration should take place. Therefore, we look upon the idea of the development of a land use plan that may take away from local properties a questionable process.

We recognize that is not the intent of this legislation, nevertheless we think it is important to preserve the traditional concept that the Government closest to the people ought to be the one that rules and governs real estate in this area. However, we know there has been a real concern of items that go beyond the scope of the local government and in those instances there is a need for a broader prospective and we do believe the cities and towns and other subdivisions many times are incapable of developing a program along those lines.

The Home Builders Association of Central Arizona has long been active in this State in the area of land use planning. Having dealt with planners and planning commissions for many years, home builders have developed a sincere concern about the manner in which growth is taking place, particularly in central Arizona, and primarily Phoenix and the surrounding suburbs.

In the summer of 1972, the Home Builders Association conducted several seminars for its builders for the purposes of acquainting them with State and local efforts to deal with land use planning.

The builders left those seminars endorsing State land use planning and have attempted to participate in a meaningful manner in State Land Use Planning Acts presently before the Arizona State Legislature. In addition, the undersigned, on behalf of the local association, attended a land use planning seminar, conducted by the National Association of Home Builders in Washington, D.C., in March of 1973, and found that the local association was consistent with the National Association and other housing associations throughout the country who recognize the great benefits to be gained from orderly growth which could be accomplished by reasonable Land Use Planning Act. The home builders continue to offer their support and assistance in the development of land use planning in the State of Arizona.

Despite the sincere efforts of many people to accomplish a reasonable regulation for the purpose of orderly growth, others look at land use planning as an opportunity to dismantle traditional private property rights and create a situation where Government becomes a part owner of every citizen's real estate holdings. Any land use planning that attempts to implement this type of thinking will receive the stiff resistance of the housing industry.

It was with a great deal of enthusiasm that I read paragraph (f) of section 303, page 26, lines 7 through 12, reference to printed bill. It appears abundantly clear in the national act, as a result of this paragraph, that there is no intention in this legislation to restrict a private citizen's full use and enjoyment of his land without some compensation. The housing industry wholeheartedly supports this section and would expect anyone hard pressed to attempt to eliminate it from this legislation.

Another great concern of the home building industry has been the development in many local communities of an exclusionary housing policy under the guise of zoning and planning ordinances. These communities have found, by utilization of planning and zoning ordinances, they can effect the type of citizenry that is housed in their community.

For instance, if a zoning ordinance for a particular area is passed establishing that the residence can only be built upon 1 or 2 acre plots, it is axiomatic that the cost of the land, particularly with its high premium in Arizona, would not permit the construction of any low or moderate income homes and as a result, only those who could afford higher priced homes will reside in those areas.

The regrettable effect of this type of action in one community within a metropolitan area is that it not only creates an exclusionary atmosphere in the community that undertakes such action, but it also has a dramatic effect on other areas within the metropolitan area in that the lower income homes will be concentrated in the areas which will permit higher densities.

The communities that practice this type of exclusionary zoning are practicing a sophisticated form of modern day segregation.

The Arizona Housing Industry would like a national act to address itself in this legislation to a housing policy which would prohibit local governments from establishing exclusionary policies toward people from lower middle income families.

In order to implement a National, State or local land use policy, it is necessarily going to require the addition of government personnel. The home builders are deeply concerned that land use planning at any level will not become a guise for the establishment of bureaucracies. Home builders today are straddled with an abundance of red tape which creates additional expenses which are attached to the price of each individual home. The Home Builders Association of Central Arizona finds that there is a great deal of duplication in several levels of government regarding the processing of a housing development from beginning to end. It is sincerely hoped that land use planning will not require another set of forms to fill out piled on top of the many that already confront a developer before he starts, and while he completes the project. It is hoped that land use planning will eliminate much of the duplication and will develop coordination between all governmental agencies which may have an interest in the development of real estate and housing in the State of Arizona.

Finally, on the business of Federal lands, we would say, particularly in a State such as Arizona, that the planning process must necessarily, the Federal lands with private lands must go hand in hand. I think particularly in areas where there is less than national concern, and there are many Federal lands where the local citizens are more pri-

marily affected than are the persons outside the State of Arizona, that in those areas in particular the local input ought to have priority over the indications from Washington.

I would suggest that many of our forests, many of the other Federal lands are primarily of local concern and use. In those areas local interests should have a primary input as to what the eventual use of those lands should be.

Of course, in other areas such as State parks, national parks, and national monuments, certainly the national interest would prevail over any State interest.

I would say in closing that we look to this program which you have outlined as possibly being the appropriate manner in which the Federal Government should get into the business of land use planning. However, we would caution that the States are making good effort. I think the State of Arizona is making an excellent effort to come up with a State land use planning program. We have already gone far beyond other States with our inventory of State assets and we will continue. But the idea of Federal involvement, first the idea that you offer us the carrot of the grant-in-aid programs, would seem to hold out the fear in the future that you may take over the whole business of land use planning.

We think it is entirely a State matter. Your encouragement, your grant-in-aid programs are excellent programs if they are limited to that. But land use is primarily a State-by-State problem. Granted, coordination is necessary, particularly in certain areas where States have borderline disputes, but nevertheless the primary interest is in the State and even beyond that in the local political subdivision.

We intend to submit a recommendation on this legislation through the National Association of Home Builders who have already given some input to this bill. We endorse your efforts and we appreciate your coming out to listen to us.

Senator HASKELL. It is very nice to have you here and I gather through your national association you will submit specific language to meet the type of thing you have been talking about?

Mr. CARMICHAEL. That's correct.

Senator HASKELL. I think I understand your viewpoint. I gather you would disagree with the previous witness on the desirability of national guidelines?

Mr. CARMICHAEL. Yes. I would think that national guidelines would be an inappropriate method with which to develop local planning problems. The business of planning is primarily a local city-town-county problem. The land use planning statutes that I have seen from State to State that developed around this country seem to indicate that there are certain times when the interest goes beyond the political subdivision's concern and in those situations it becomes a statewide concern. I see no rationale developed to substantiate that there is any need as yet for national guidelines.

Senator HASKELL. Apparently you agree that at certain times the cities and countries can't solve their problems and, therefore, it is a matter of State concern, but I guess you don't take the next step which says when States interfere with each other it is not a national concern. Would that be generally your position?

Mr. CARMICHAEL. The situation that might arise where certain problems would occur that would result in the planning process being

more than a State concern, much as we have overlapping subdivisions within an area, then in that instance there may be some need for a national policy to take place. Short of that example, there ought not to be within the confines of any State any need for any national guidelines.

Senator HASKELL. I think that certainly, as I said before, none of us want the Federal Government in the zoning business. We may disagree as to whether this should be a statement of national policy, but rest assured—I am sure there is nobody on the Interior Committee that wants the Federal Government to get in the zoning business.

Senator FANNIN.

Senator FANNIN. Thank you.

Mr. Carmichael, we appreciate your testimony and share your concerns about some of the provisions that could be in the bill that would be very detrimental. Land use planning should, if properly written, be of great help in eliminating many of the complexities you refer to as redtape. We hope that can be accomplished. I know we have had a report where one of our utilities had to go to 25 or 30 agencies and organizations before they could obtain a right-of-way for a line. Of course, this was not only costly but of great inconvenience for many customers.

I do want to assure you in the discussions we have had in the hearings recently, that any land use bill that we have in the Senate must have provisions to safeguard owner property rights. We appreciate your recommendations. I know they will receive serious consideration. Thank you.

Mr. CARMICHAEL. Thank you, sir.

Senator HASKELL. The next witness is Mr. Lloyd Moss of the Arizona Small Mines.

#### STATEMENT OF LLOYD MOSS, REPRESENTING THE ARIZONA SMALL MINES

Mr. Moss. Mr. Chairman, Senator Fannin. I am here prior to the prospectors and small mine operators funeral, as a missionary, if you want to call it that.

First of all, I would like to give my name. It is Lloyd H. Moss. I am also president of the Small Mine Operators of Mojave County, Ariz. I am also chairman of the Mojave County Mining Commission. I am a third generation family, my family having operated individual mining properties in Mojave County since 1860, prior to the Federal mining law of 1972, which, I understand, is about to be buried, too.

I would like to say in my oral dissertation here, that this particular land use policy bill that you have here, you have not in any way given benefits or given the prospector or the small mine operator that has previously developed Federal mining ground, which is open ground for filing on.

I have filed on a piece of ground in Mojave County and I have developed in 20 years \$100 million worth of gold and silver by core drilling, and prospecting in general.

Now, my understanding of this bill is, that we, the small mine operators and prospectors, will have this land taken away from us, and this land will be open for bids of the highest bidder.

Naturally, the first step is going to be in your land policy program, and the bill that is going to follow will be doing away with and repealing the Federal mining law. This will throw all lands open for bids of the highest bidder.

That, naturally, will do away with all my prospecting, all of my development work, and will not give me credit unless I bid on my own ground and I understand it is going to be from \$2 to \$20 per acre that you have to bid on it.

It is going to be a cash payment on this particular land; 3,000 acres that I have filed on, I will have to pay from \$6,000 to \$60,000 to the Government in cash payment to carry on any work.

As I see it, as I said before, this is the end of the individual mine owner and also the prospector.

Now, as I would like to point out here, in Canada they do give you the privilege of filing on Dominion ground in Canada. They will give you 3 to 5 years not to make a payment after you have done your development work. That is a moratorium, more or less.

The rules and regulations that your land use and your Federal mining law, that will be out the window and you will have to make a cash payment on any ground that you make a bid on and will lease directly from the Government.

As I said before, I have appeared today prior to the funeral of the small mine owner and the prospector and I am a third generation miner, and I am here today to appear at my obituary. I thank you.

Senator HASKELL. Mr. Moss, don't leave. I hope that is not the case. I cannot imagine Congress adopting legislation which would apply retroactively and have you make payments on mining claims that you have now filed on under existing laws. I can imagine the Congress prospectively perhaps putting the hard minerals in the same category as oil and gas where there is a nominal, not \$2 to \$20 an acre, but a nominal fee, but a royalty to the Federal Government if and when there is production.

But it just offends my sense of justice to think that any such law would retroactively apply to gentlemen such as yourself and many others like you who have arrived under the Mining Claims Act of 1872 and have filed and done your assessment work. I just want to speak as one personal Senator.

Senator FANNIN.

Senator FANNIN. Thank you, Mr. Chairman.

I would say, Mr. Moss, the Congress spent 5 years studying the public land laws, the Public Land Review Commission in order to make recommendations as to any changes that should be made in the laws. I can assure you as a member of that committee, that recommendations of the Public Land Law Review Commission would not eliminate the small mine operator. I hope that your concern is not as serious as you take it.

I just cannot believe that we are going to be that unfair as to eliminate the small mine operator. It certainly was not the intent in that report.

Mr. Moss. I would like to add this, that the gross royalty that you are going to pay is equivalent to 30 percent net. How can anybody make a bid on any mineral grounds? The State lands also ask a minimum royalty of 3 percent gross. That is prohibitive. It should be net, not gross, if and when that comes about.

I would also say something about our mineral crisis and also about our energy crisis. I would like to speak on the Bryce Canyon Dam future. You take most of the dams we have on the Colorado, when they state the capacity of the dams, they do not include the 50 percent silt that are in these dams. Now, this water that is allocated for Mojave Canyon has been erased. It has been allocated to our future atomic project on the river, our central project and also to Mexico.

We do need this energy, we do need this water. In the next 5 to 10 years we will not have enough water even for these proposed projects that you just stated. Unless we get busy and start some action on this Bryce Canyon project.

I thank you.

Senator HASKELL. Thank you, Mr. Moss, very much indeed.

The next witness will be Mr. James Richardson, of the Arizona Mining Association.

#### STATEMENT OF JAMES RICHARDSON, PRESIDENT OF THE ARIZONA MINING ASSOCIATION

Mr. RICHARDSON. I am James Richardson and I am the president of the Arizona Mining Association.

I am a mining engineer, having received a B.S. in mine engineering in 1932 from the University of Missouri—Rolla; an engineer of mines degree from the same institution in 1935; and a doctor of engineering degree from Michigan Technological University in 1969. With the exception of 4 years spent in the armed services, my entire working life has been spent within the mining industry. My experience in industry has given me the opportunity to work, intimately, on problems involving both open pit and underground mines.

I am speaking today in behalf of the Arizona Mining Association. Our 13 member companies, produce, from their Arizona operations, more copper than is produced by all of the other 49 States combined or by any other country in the free world. Their production of other vital metals as byproducts of their copper operations is such that Arizona's rank among metal-producing States is No. 2 in molybdenum, No. 3 in silver, and No. 4 in gold. Arizona is generally conceded by mining authorities to constitute the most significant nonferrous metals inventory in the United States.

S. 268, Land Use Policy and Planning Assistance Act of 1973, in our estimation, fails to recognize the prior policies laid down in the Mining and Minerals Policy Act of 1970, which expressly states the policy of the United States is to foster and encourage a prosperous, viable, domestic mining industry.

The provisions of S. 268, like other recent bills being considered, seems bent toward environmental protection and the prevention of land use and development. It would appear to us that the needs of our society, insofar as its standard of living and our fundamental right to be secure in the ownership and use of private property are concerned, have all been relegated to secondary consideration.

Any land use planning must be carefully drafted in order to avoid wasting this valuable national asset through imposing prohibitions and restrictions which neglect most beneficial uses, even lead to a nonuse policy. Certainly we find ourselves asking that common sense and

realism prevail and that available land be used in such a manner as to enhance the economic stability and living standards of our State and Nation, as well as supplying their needs.

Arizona uses, for mineral production activities, 0.2 percent of the State's surface—and from relatively insignificant portions makes the just described contribution to our national welfare. Its 892,000 tons of copper produced in 1972 is valued in excess of \$1 billion. The amount of land currently being used in mining is not a rapidly growing area. The development of new mines in the future is not expected to change those acreage figures to any marked degree.

Although only 0.2 percent of Arizona's land area is devoted to mineral production, we respectfully call your attention to the fact that the yield per acre per year on these 120,000 acres of mining lands amounts to approximately \$8,300, and provided Arizona residents a personal income yield in the form of wages and salaries of \$205 million. This equates to \$1,700 per acre per year. Other major land uses include grazing with approximately 40 million acres, which equated to an approximate \$8 per acre yield per year. Crop raising in 1970 occupied 1.22 million acres with total value output valued at approximately \$233 an acre per year.

This bill would require States to develop a land use planning process which must include, "projections on the nature and quantity of land needed and suitable for—mineral development" and other uses—section 302(a)(3). You have heard many times that our mineral resources are unique in comparison to surface resources. To some extent the location and value of surface resources can be determined by visual examination and the value of the land for those resources can be estimated. The value and location of mineral resources are unknown until they are discovered through expensive and time-consuming exploration by individuals and companies using highly sophisticated equipment and methods. To presume that land planners can identify the nature and quantity of lands needed and suitable for mineral development is absurd. To invite the restriction or prohibition of mineral development on lands without allowing private industry to determine the mineral potential of that land, would be a disservice to our citizens and country.

Our projected future national needs of minerals certainly requires that more lands, not fewer, be available for exploration and development. We find no fault with a policy that limited areas of intense development, unusual, historic, or truly rare scenic value be avoided, if possible, but there can be little argument that mining seemingly provides the most beneficial economic use to our Nation, another matter should be, but of recent times, frequently is not considered; that is, the basic human needs and desires of our citizens to have the products made from our mineral resources.

It is often overlooked that the mining industry exists and mining is conducted, not because the people in this industry have a devious obsession to dig holes in the ground, but it exists because there is a demand from our citizens for those minerals. When that demand declines, fewer minerals are produced; when the demand increases, mineral production increases.

This committee, Mr. Chairman, is, I'm sure, concerned with the critical nature of our national posture insofar as future needs and balance of payments are concerned. It would appear imperative that

we encourage the exploration for minerals and develop such national self-sufficiency as is possible in order to avoid dependency upon foreign sources. Such sources, primarily from the developing nations, are fragile and subject to political uncertainties. Not to be discounted is the need of the same nations for their own minerals as their living standards develop.

Will needed minerals be available from such sources; and at what price during a national emergency? Such questions I'm sure are foremost in your minds.

Mr. Chairman, every thinking American must be vitally concerned as to what supplies, both actual and potential, of minerals will be available to our Nation. Land use planning, in our estimation, cannot apply to these subjects. Because there is virtually no choice as to where mineral occurrences exist, the application of land use planning to its development can only mean that the lands available to develop will decrease as our mineral needs increase.

In S. 268, undue attention is diverted to the requirement that each State inventory and designate "areas of critical environmental concern." The mandatory application of such a term in a land use planning system could prevent development of mineral resources in such areas. This phrase, "area of critical environmental concern" as defined in section 501 is so broad that it alarms our industry and should alarm members of this committee as to its restrictive possibilities. When one reads the mandatory list of such areas as appears in section 501(e), supplemented by the phrase again—501(e)(9)—he cannot help but be convinced that every acre of land in Arizona could, conceivably, be so categorized.

Certainly nonuse or a minimal single use of land is being suggested by this bill rather than multiple use to provide maximum benefit to our people. The mandatory list of includable areas, in our estimation, should be eliminated and a carefully drafted definition of "areas of critical concern" be substituted which would not be subject to such unlimited application.

A similar problem exists with respect to the requirement that States establish the authority to prohibit the use of land which has been identified as presently or potentially subject to large-scale development. As this term is defined, it would almost certainly include every new mine development in every State. What this means is, that when a mineral deposit has been identified after the expenditure of perhaps millions of dollars, the State officers would have the authority to prevent the development of the deposit at any stage before or during the development. Such uncertainty created by this bill will hardly foster and encourage private enterprise in the development of an economically sound and stable domestic mining industry.

There is written into this bill the requirements for statements concerning the consistency of Federal projects, activities, new programs, policies or rules with similar programs or policies of State planning bodies. These statements will flow back and forth between Federal agencies, State land use planning bodies, Governors and local governments.

Either the drafters of this legislation were not aware of the experience industry and the Federal agencies have had with impact statements, or there must be a design to cause both industry and agency activities to grind to a halt. Litigation and delay are inevitable as a

result of preservationists groups raising the question of the adequacy of such "final statements." In these arid, semidesert lands, ecological and environmental systems are fragile and such "consistency" statements and their challenges could assume monumental proportions, paralyzing agency operations which, perhaps, is precisely what some groups which support the consistency statement requirement have in mind.

We firmly believe that this beautiful land of ours must be better used than it has in the past if it is to continue to provide a habitat for free men. In order to assure our survival as free men, consideration must be given man himself. He, too, is a part of these systems and as his numbers grow, balances are tipped one way or another. We all definitely know that undue credence is being given a dedicated group of extremists tending to overdramatize the consequences of man upon our planet earth.

There is a recurring notion that industry in general, and ours in particular, can and should continue indefinitely to absorb the costs of a growing service and recreation-oriented society. Food, shelter, and clothing are no longer man's full response to his needs. We are a metals-oriented culture and our self-sufficiency is being tested each day as crisis after crisis comes into being.

Mr. Chairman, each of you know well the impact the recent gas shortages had upon your constituents. Despite the reasons this shortage occurred, it exists and wage earners didn't go to work; food spoiled, schools closed down; State and Federal revenues were affected. Give consideration, I beg you, as to the effect upon this Nation if metals are not continued to be made available in sufficient quantities. The major portion of man's activity would grind to a halt. Mining itself is rapidly becoming a fragile system.

We must not do anything which will arbitrarily hinder the exploration for minerals and the development of them into useable articles of commerce. Unrestrained prohibitions, as contemplated in S. 268 in its present form, would prevent the orderly inventoring and production of those mineral natural resources so essential to our national well-being and defense.

We strongly recommend that mining be exempted from such legislation. Other legislation will certainly control the effects of mining. It is a fallacy to presume any sensible and realistic planning of land use can be accomplished without knowledge of what resources are present. Land use planning without such knowledge is but unrestrained decisionmaking applying the non-use philosophy.

These views are most respectfully presented for your consideration. We are appreciative of your many problems and the opportunity to be heard, sir.

Senator HASKELL. Thank you, Mr. Richardson. You called our attention on page 3 of your statement that the bill states that States would be required to develop "a land use planning process which must include projections of the nature and quantity of land needed and suitable for mineral development." This perhaps is unfortunate phraseology because land—in the first place, if you knew where the minerals were they would probably be taking them out of the ground right now.

On the other hand, there is a balance, if there was a copper deposit right under the city of Phoenix I doubt if you would mine it. It is a

darn hard thing to strike a balance on, and I am going to ask the staff to take a look at this language and get together with the lawyer on the staff who is in charge of drafting the bill, because I can see the problem.

There is no early way of inventorying the land needed. Suitable, possibly, as in my example of Phoenix.

Now, on page 5, I think my reaction on areas of critical environmental concern, I am not sure that I—I am just talking off the top of my head. I am not sure I can buy your argument on that because there are areas of critical environmental concern.

Take my State, Glenwood Canyon, for example, I would hate to see somebody go in and put an open pit in the middle of Glenwood Canyon.

Also, we should remember these State plans are going to be evolutionary in nature. At least I hope they are. Circumstances change and if we had a great demand in this country for molybdenum, which I don't think we do because we have a couple of big molybdenum mines in Colorado, we would be able to involve the trade-offs.

The whole problem really is—well, let me give you an example. We have to have powerplant sites and refineries and yet nobody wants a refinery. On the other hand, we don't want development just for the sake of development. When you called attention to large-scale development, I don't think that means mining, I think that means areas where large urban sites might be developed and this is an area of critical concern to the State and, therefore, they should legislate on it and not let developments go without any planning.

But I don't think this necessarily means to withdraw from mining.

The real problem is to balance what I think I would refer to as the quality of liveability of our citizens and which you eloquently stated at the end of your address with the necessity of having a certain economic standard of living. But specifically on that thing you called our attention to on page 3, I will ask the staff to look at that.

Your statement is thoughtful and, I hope, you appreciate some of the problems we are running into in preparing this legislation which I think is needed.

Mr. RICHARDSON. Let me say this, I am familiar with your State, I lived for 6 years in Leadville, I have been down Glenwood Canyon many times, and I think those are areas that certainly can be better defined rather than so broad as they are here, because I can conceive of almost any area in Arizona that could be so categorized. Because the whole desert is a fragile system.

I have great respect for what you gentlemen are trying to do and I understand it. We do endorse leaving the land as beautiful as we can leave it and we want to leave it, but we can't say to the American people that we don't owe some responsibility to them, too, for their demands and needs.

Senator HASKELL. I understand your position and I appreciate your statement.

Senator FANNIN.

Senator FANNIN. Thank you, Mr. Chairman.

Mr. Richardson, you have given us valuable information. We are all concerned about the environment, we are concerned about what the mining industry can do, we are concerned about the refineries. At the same time we feel a balance between these competing interests can be struck.

Now, I understand you have some research laboratories in the mining industry, there is one near Tucson, is that correct?

Mr. RICHARDSON. Yes, sir.

Senator FANNIN. What do they do other than from the standpoint of direct smelter work or what can be done as far as mining activities?

Mr. RICHARDSON. I can only say this, Senator we do not have—we financed, to the extent of over half a million dollars at the University of Arizona, a study at the Atmospheric Air Analysis Laboratory. We have certainly no control over this. But the object of this is to determine just where these various smokes and pollutants that enter the air, where they come from, the amounts of them, and some way we can determine what is happening in this system here. The pollutants that are here in Phoenix, to pollutants that are in Tucson—

Senator HASKELL. And Denver?

Mr. RICHARDSON [continuing]. And Denver, absolutely, and Los Angeles. We know, for instance, that the refineries were closed until the pollutants were under control. We know that Los Angeles continues to have the same problem. It hasn't been solved. So this is what we hope to find out, sir, from that laboratory.

Senator FANNIN. Well, I agree that it isn't just one responsibility that is involved, we are all responsible for what is happening and the mining industry is going to be obligated to make greater sacrifices, just as other industries will be demanded to make greater sacrifices.

I do hope we can work together and I feel we have been making some great efforts here in the State of Arizona. I will report one item that might be of interest.

When we were told the Japanese had a better emission recovery system on their stacks, the local companies and some of the government people, too, sent men and engineers to Japan. They found out that the equipment being utilized there was made in New York and had been approved in the work in the Four Corners area. They expended \$25 million on the first equipment and I think it fell apart and they had to put about \$25 million more on the equipment and this is the same equipment that was being utilized in Japan.

I understand the equipment we have in our industries here does have those improvements and it is working. I hope that is an indication of what can be done and will be done in that regard.

I feel we all must sacrifice if this is to be accomplished.

Senator HASKELL. Mr. Richardson, thank you very much. One further comment on this large-scale development. What that is aimed at is, if there is an area of large-scale development, let's not turn Denver into Los Angeles or Chicago. Let's not turn Phoenix into Los Angeles or Chicago.

If you feel—I don't personally feel these areas would forever be locked up, if a large mineral deposit was to be found there, I hope the plan would have that flexibility. The intent is to prevent metropolitan sprawl. If you feel it is not sufficiently contained in that language, I would hope that you would submit some kind of suggested language.

Mr. RICHARDSON. All right, sir, thank you kindly.

Senator HASKELL. Thank you very much, Mr. Richardson.

The hearings are recessed and will resume at 2:30 this afternoon. [Whereupon, at 12:55 p.m., the hearing was recessed, to reconvene at 2:30 p.m.]

## AFTERNOON SESSION

Senator FANNIN [presiding]. The hearing will come to order.

The next witness will be Sherman Bendalin, president of Environmental Conscience, Inc. Mr. Bendalin.

Mr. BENDALIN. Good afternoon.

Senator FANNIN. We welcome you here this afternoon. You may proceed as you desire.

**STATEMENT OF SHERMAN R. BENDALIN, PRESIDENT OF ENVIRONMENTAL CONSCIENCE, INC.**

Mr. BENDALIN. Mr. Chairman, my name is Sherman R. Bendalin. I am president of Environmental Conscience, Inc.—hereafter referred to as ECO. ECO is a nonprofit Arizona corporation whose stated corporate purpose is an interest in the environment, trying to bring about a balance between man's need for a clean and healthy environment and his need for an advancing technological society. We have participated in similar congressional hearings before, and are grateful for this opportunity to analyze and publicly comment on the pending bill, S. 268.

At the outset, we suggest that if time permits, more of these public hearings be scheduled by this committee so that citizen input can be maximized. Land use planning is a topic of intense citizen interest. Particularly, citizens from other parts of the country should be able to comment on the bill, if they are not already scheduled to do so. We would also submit that these additional hearings be expanded to give citizens the opportunity to comment on bill S. 1081 dealing with the transmission of energy. Both bills deserve maximum citizen input.

**SPECIFIC COMMENTS**

In the short time ECO has had notice of today's hearing, we have been able to study S. 268. We have also shared in analyses made by other citizen groups, some of which are represented today. We would specifically like to concur in the comments submitted by Joe P. Sparks, who also will testify. We would also like to thank the Environmental Policy Center of Washington, D.C., for their analysis of portions of the bill, upon which many of our comments are based.

Our comments on the bill follow. All references are to the printed version of S. 268 as introduced.

1. Section 101. The findings in the bill we would like to see expanded, perhaps based more closely on those of a similar bill from last session, H.R. 7211. In any event, we would suggest that the shortcomings of paper promises of citizen participation be recognized by adding an additional finding at page 5:

"Section 101(i). The Congress finds that significant land use decisions are being made without adequate opportunity for members of the public to be informed about the decisions, their impact, or the alternatives and without meaningful opportunity to participate in such decisions."

2. Section 203(c). The National Advisory Board on Land Use Policy must function under public scrutiny and have its written findings and reports available to the public. The biennial report required by section 503 does this somewhat, but we would suggest

a subsection (6) which would mandate that all written findings and reports be available pursuant to the Freedom of Information Act 5 U.S.C. 552.

3. Section 302(a)(2). This requirement should be expanded to require the States to study the effect of population growth on the balance of nature. We would, therefore, suggest the following be added to this subsection, at the end of line 11, page 18: "and an analysis of the carrying capacity of ecological systems for various population levels and types of development;"

4. Section 302(a)(6). The continuing inventory should also include those resources under control of citizen groups, who more and more are buying land to protect it from development. Therefore, we suggest inserting into line 10, page 19, after the word "resources" the following: "including citizen public interest organizations"

5. Section 302(a)(8). Citizen input, a policy ECO recommends in general, can be encouraged by enabling citizens to initiate the designation of areas of critical environmental concern. We suggest the addition of the following at line 20, page 19:

"including a provision whereby any ten (10) interested people shall have the right to petition the State land use planning agency to seek designation of an area of twenty-five (25) acres or more in one of these categories and assurance that whenever such a petition contains allegations of facts and supporting affidavits which tend to establish the reasonableness of such a designation, the petitioners shall be granted a hearing within reasonable time and a decision in writing upon the matter of the petition."

6. Section 302(a)(15). We would suggest the following new subsection to be inserted as indicated at page 20. This addition would specify the suggested minimum elements of a State policy to insure management. State land use plans must have similar underlying elements to be coordinated at the Federal level.

"(15) the development of substantive State policies to guide the use of land in areas of critical environmental concern and the State's criteria for applying the policies to land use decisions, which policies and criteria shall include, but not be limited to, the following factors:

"(A) the aesthetic and ecological value of wetlands for wildlife habitat, food production sources for aquatic life, recreation, sedimentation control, and shoreland storm protection;

"(B) the susceptibility of wetlands to permanent destruction through draining, dredging and filling and the need to restrict such activities;

"(C) the value of watershed land for storing and retaining or otherwise controlling runoff water so that it does not reach natural waterways during storm conditions or times of snow-melt and the need for controlling development and use in a manner which does not substantially diminish such value;

"(D) the value of managing upland watershed for maximum water retention;

"(E) the direct and indirect costs of substantial development on flood plains and the need to restrict the hazardous, uneconomic and unnecessary use of such areas, while preserving their recreational, aesthetic and environmental values."

7. Sec. 303(a)(2)(A). This subsection, ECO submits, should be expanded to, again, acknowledge the encouragement of citizen par-

ticipation and guarantee its realization. We would strike lines 7 through 10, page 23, and substitute the following:

“(A) assuring that the use and development of land in areas of critical environmental concern within the State.

“(i) will not substantially impair the historic, cultural or esthetic values or natural systems or processes within or affecting such areas and minimizing or eliminating dangers to life and property resulting from natural hazards in such areas

“(ii) is scrutinized, and approved, disapproved, or modified on a case-by-case basis with reference to the State’s policies and criteria developed pursuant to section 302(a) and only after adequate notice and opportunities for comment and participation by interested persons.”

8. Section 304 (a) through (f). We would suggest changing subsection (a), at page 26, and adding a new section (b); then, renumbering sections (b) through (f), pages 27 through 28, without changing them. Our suggestion is as follows:

“(a) In designating areas of critical environmental concern, the State has not excluded any substantial areas of critical environmental concern which are of more than statewide significance. Within three years from the date of enactment of this Act, and thereafter as he deems appropriate, the Secretary shall, after opportunity for public comment, submit to each State a description of areas of critical environmental concern within such State which are of more than statewide significance.

“(b) In controlling land use in areas of critical environmental concern of more than statewide significance, the State has procedures to prevent action (and in the case of successive grants, the State has not acted) in substantial disregard of the purposes, policies and requirements of its land use program.”

9. Section 307. We suggest that additional sanctions be added. They would be patterned after those contained at Sec. 15 of the Airport and Airway Development Act. By withholding moneys earmarked for the States, according to an ascending schedule based on the continuing noncompliance of the recalcitrant States, it is suggested compliance in this important area would be achieved.

10. Section 501(f). We should strongly suggest expanding the definition of “key facilities.” Thus, we would strike lines 20 through 24, page 47, and substitute the following:

“(f) The term ‘key facilities’ means public facilities of non-Federal lands which tend to induce development and urbanization of more than local impact including, but not limited to:

“(A) any airport designed to serve for regular, scheduled air passenger service, and other airports of greater than local significance;

“(B) interchanges between the Interstate Highway System and frontage access streets or highways, major interchanges between other limited access highways, and frontage access streets or highways;

“(C) frontage access streets and highways of State concern;

“(D) major recreational lands and facilities;

“(E) municipal waste treatment facilities;

“(F) major water resource development projects; and

“(G) facilities for the development, generation and transmission of energy.”

## CONCLUSION

ECO has the aforementioned specific recommendations to S. 268. We also have some general comments. First, public participation should and must be encouraged. Paper promises of public input (e.g., comments, public hearings) must be given strength and sinew to become real. Notice requirements are particularly important. Perhaps the Board, or the State advisory councils created pursuant to section 302(b)(7), should compile a mailing list based on participation in public input opportunities. Those persons or groups who demonstrate interest would be notified directly.

Secondly, we strongly urge that however Federal land use planning is finally accomplished, the Federal Government does not abdicate its control over lands it traditionally administers. Control of these lands must remain in the hands of Federal agencies to insure that local pressures do not override the long-range plans for the lands. To allow the respective States to plan the long-term use of these lands would, we submit, allow for local political and development pressures to override the very reasons the lands were originally entrusted to the Federal Government for administration. States should be consulted so that the development of privately owned lands, subject to the State land use control, can be coordinated with federally controlled lands; neither the State nor the Federal Government can plan for land use in a vacuum. However, ECO strongly encourages that the ultimate decisionmaking authority remain with the Federal Government.

Third, we urge the committee to guard against building into its land use planning theory the philosophy that growth is good. The findings and declaration of policy clearly reflect our concern. The procedure established, however, does not contain adequate safeguards. Whatever should be done to combat that philosophy must be done in this bill or else our beautiful State, one particularly susceptible to that philosophy, will be destroyed.

Thank you for this opportunity to comment.

Senator FANNIN. Thank you, Mr. Bendalin. Just so we will have the information, when was your organization organized?

Mr. BENDALIN. December of 1969, that is when we were incorporated here in the State of Arizona.

Senator FANNIN. Do you operate in other States?

Mr. BENDALIN. No, sir.

Senator FANNIN. How many members do you have right now?

Mr. BENDALIN. Our board of directors consists of approximately 10 now, Mr. Chairman. We do not have members as such.

Senator FANNIN. You just have 10 members of the Board?

Mr. BENDALIN. That's correct, an advisory council.

Senator FANNIN. These are the last Senate hearings that are being held, but I do want you to know that in the 91st Congress a land use bill was introduced in January of 1970 and 4 days of hearings were held then.

Then in the 92d Congress we held hearings, in fact 10 days of hearings on this type of legislation.

This year in the 93d Congress, we have held hearings in Washington and as well as these hearings in Arizona. Hearings are also going on

at the present time in the House of Representatives. So we have had extensive hearings, having heard from many groups, environmentalists, and others, throughout the Nation.

Don't you think it is rather difficult to continue holding hearings and not coming to a conclusion?

Mr. BENDALIN. I was not aware of that history and I agree with you that you can't hear something like this to death. If that is what has taken place and there have been adequate opportunities for the public, I was not aware of this history and I agree with you there perhaps have been enough hearings.

Senator FANNIN. I am pleased to tell you that citizen input has been expanded in the new committee print. For example, it is in section 302(a)(6). Do you have the committee print?

Mr. BENDALIN. This is the copy I was given by your office on Friday, that is what I have.

Senator FANNIN. There is a new committee print that has just come from the Printing Office dated March 28, 1973, so we have not had a chance to distribute them.

Mr. BENDALIN. Fine. Would they be available from your office.

Senator FANNIN. Not at the present time. It is in a form that probably will be changed in the next few days. We will try to have one copy available at my office for examination but we will not be able to have very many because I don't think there are that many in print.

Mr. BENDALIN. Just a working copy would be fine if it was available at your office.

Senator FANNIN. Yes, we will have that. Most of the citizen input suggestions that you have made have been accepted.

Mr. BENDALIN. Fine. Thank you. Again, I appreciate the opportunity.

Senator FANNIN. Thank you.

The next witness will be Peggy Spaw from the Arizona Conservation Council. We welcome you here this afternoon, Mrs. Spaw.

#### **STATEMENT OF PEGGY SPAW, ARIZONA CONSERVATION COUNCIL**

Mrs. SPAW. I have a written paper, if I may. I am reading for the Arizona Conservation Council.

Senators and representatives of the Senate Interior Committee, and particularly Senator Paul Fannin of Arizona, Arizona is distinguished by today's opportunity to consider S. 268. The Arizona Conservation Council wishes to thank you for your invitation to speak today. The Arizona Conservation Council represents the federated environmental interests of some 40,000 Arizonians.

The Arizona Conservation Council has maintained study and action committees on land use, particularly public-owned land, since the convening of the Public Land Review Commission, back in 1964. The Council has kept ongoing interest in the dedicated and long work that Senator Jackson and his colleagues have put into the development of a national land use plan.

By reason of its scope and flexibility, Senate bill 268 will surely accomplish two goals for the Nation: it will impel the States toward structured action in the areas of growth and diminish quality; and it

will give to each of the mixture of our States a base from which it can identify problems and proceed with creative land use planning and enforcement.

The Council takes particular note of the system of grants to States, offered in this legislation. We endorse this. It gives the State a sense of incentives and latitude for fresh, creative planning.

Public land predominates in Arizona, most of the West, and Alaska. When Arizonans think "land planning," public domain is a prominent consideration. The Council is well aware of collateral Federal legislation now under consideration in the Senate Interior Committee. We refer specifically to Senate bill 1081, and companion bills. We do not consider it extraneous to the offices of Senate bill 268 to call your attention to 1081, and respectfully request that your committee schedule early public field hearings on 1081, throughout the Western States.

The Council encourages your committee to continue considerations of "areas of critical environmental concern" on a regional and national basis, where pertinent and necessary. The West is the home of our country's special and scenic areas, many of them combinations of rare and irreplaceable elements of beauty and biota, delicate and vulnerable.

Key facilities, areas of critical environmental concern, and public participation are the points from which the Arizona Conservation Council has studied S. 268.

Referring to section 302(a)8, the council urges that this section 8 be maintained, carefully methodized for public input, and the inventory language so structured that in no case can the State assign the land for a specific use until the prescribed process for inventory is completed and publicly reviewed.

Again, section 302(a)8, we respectfully request that you amend here to allow for due process, whereby an individual with quality information may appeal to the State land planning agency on behalf of the environmental integrity of an area of any size.

Referring to section 501(3) and "areas of critical environmental concern," we suggest that the word "irreversible" be struck and the word "significant" be substituted. This would allow planners to head off long-lasting degradation as well as permanent degradation.

Section 501(f), holding the thought that "key facilities" are probably Arizona's major source of visual and atmospheric degradation, the Council suggests that "key facilities" in the context of transmission lines and power generation plants should be exclusively in the bailiwick of the Federal Government. The placement and routing of such key facilities may be done in close cooperation with the State, but the final action should come from the Federal level.

This Council fully endorses Senator Gaylord Nelson's proposed amendment to S. 268, "Second Home and Subdivision Regulation Act." The Council feels that the spirit and work of this amendment are very apt to the conditions in Arizona and the West. We urge the adoption by your committee of this amendment.

Thank you again, and particular, thanks to Senator Paul Fannin. Senator FANNIN. Thank you very much, Mrs. Spaw. We are privileged to have you with us today. I know you have visited my office both here in Phoenix and in Washington and you have shown a tremendous amount of interest in the matters and we do thank you for the assistance you have given us.

Mrs. SPAW. Thank you, Senator.

Senator FANNIN. The next witness will be John Hazlett, chairman of the Arizona State Tax Commission. Chairman Hazlett, we welcome you to the hearing this afternoon. We know that you have a long history of participation in this type of activity, and we look forward to your statement.

#### STATEMENT OF JOHN HAZLETT, CHAIRMAN OF THE ARIZONA STATE TAX COMMISSION

Mr. HAZLETT. Mr. Chairman, members of this subcommittee my name is John M. Hazlett, and I am currently chairman of the three member, elected, Arizona State Tax Commission.

First, let me thank the committee for the opportunity of appearing before you today and of being able to give you my comments on S. 268 the "Land Use Policy and Planning Assistance Act of 1973."

Beginning as far back as September of 1966, when I first heard Byron Mock—who was then vice chairman of the Public Land Law Review Commission—give a talk on land law problems at an American mining convention in Salt Lake City, I have had a deep interest in land law problems and land use policies of this country.

That interest has been so strong that for 3 years I was chairman of an interim committee of the Western States Association of Tax Administrators concerned with the activities of the Public Land Law Review Commission, for 2 other years gave major addresses to this association on land law problems and have now compiled my comments along with some 22 other panelists into a 5-year summary of our discussions and conclusions on this subject.

Compared to \$7 million it cost the Federal Government to prepare the Public Land Law Review Commission's report entitled "One-Third of the Nation's Land" our State approach to the same problems came out of "petty cash". But I must admit our comments were not "petty" because they came from the hearts of our panelists and they were all experts in their field.

Outside of a major address prepared by Senator Paul Fannin, all of our panelists were either tax administrators, professors, or industry representatives—not legislators or Congressmen. All we have been able to do is to recommend changes in laws—we have no votes to see that they are placed in the statute books.

The major conclusions we reached were much as follows:

1. Something must be done to help the States handle the problem of Indians and Indian reservations. Are they or are they not citizens to be treated as everyone else? With only 15.26 percent of the land in Arizona privately owned, why shouldn't our land use policies be made to cover the 27 percent held in trust by the Federal Government for the Indian tribes?

2. A solution must be reached to equitably resolve the conflicts now surrounding the reservation versus the appropriative doctrine of water rights.

3. A national land use policy must be tied to a uniform State real property tax base. The States could use some help in determining uniform assessment practices especially as regards "highest and best use" and "current usage" valuation procedures.

4. Offshore limits of State sovereignty as well as the limits of State sovereignty on navigable waters within a State must be clarified.

5. If changes are made in the mining laws, we must retain those features that encourage private individuals or enterprises to go out and look for minerals and to develop ore bodies.

6. The "chamber of commerce" approach being followed in many of our major cities is causing tax increases to rise faster than population increases. Land use policies should be established that will reverse this trend.

Our panelists were almost unanimous in reaching agreement that legislation and not litigation is where our land law answers lie as our courts are jammed with cases attempting to draw innumerable lines of demarcation in grey areas left by the passing of unclear laws.

In reviewing S. 268, I especially like section 103(a), which says:

"Sec. 103. It is the purpose of this Act—

"(a) To establish a national policy to encourage and assist the several States to more effectively exercise their constitutional responsibilities for the planning and management of their land base through the development and implementation of State land use programs designed to achieve economically and environmentally sound uses of the Nation's land resources; \* \* \*"

But from there on I am lost. Where in this legislation are there any land use policies being established that would answer the questions our panelists raised? We have encouraged legislation to prevent litigation. It appears to me that this legislation will do nothing but encourage litigation.

As I see it, the proposed National Advisory Board on Land Use Policy is to be made of representatives from every Federal agency that has the slightest interest in land use policies. Advisory members from State and local governments would be selected by the Federal agency representatives to advise them on how to advise the President and the Secretary of Interior.

Under such a situation I find it hard to believe that the States would wind up with any rights at all to establish their own State land use policy.

It is true that a State land use planning agency would have to be established under this proposal but only on the basis that it would just have to be understood that it was to take its orders from Washington.

This State agency would be advised by another advisory council of chief elected officials of local governments appointed by the Governor. But where in this whole plan would a State tax commissioner, a State land commissioner, or even an industry representative be able to get his ideas across or to have any say in final land use policy decisions? Personally I believe any of these individuals would have a better feel or at least as good a feel of the economic effect in our State of proposed land use policies than other representatives now designated to be on these boards.

It is my understanding that President Nixon is doing his best to move governmental powers out of Washington and back to local governments. He believes that Washington is not the "depository of all wisdom."

How then can this legislation maintain, as stated in section 101(b), that—

"The Congress finds that \* \* \* the primary responsibility and constitutional authority for land use planning and management of non-Federal lands rests with State and local government \* \* \*" and then turn right around and attempt to give these acknowledged States' rights to a new bureaucratic office in Washington?

Under section 203(c)(2) the National Board, subject to recommendations from State land use planning agencies, would only be able to "render advice, pursuant to section 502, to the Executive Office of the President and the Secretary concerning proposed guidelines, rules, and regulations for the implementation of the provisions of this act;".

Under these circumstances how would any Congressman, or for that matter the people of the United States, begin to know what national land use policies were being imposed upon them by the passage of this act if they were not stated in the act itself?

Apparently, they would only find this out when the rules and regulations were issued. Frankly I do not think that the laws of this country, in a matter as important as land use policies, should be imposed by the issuance of rules and regulations over the simple signature of our President or the Secretary of the Interior.

My conclusion is that your committee must take a longer look at this proposed legislation before you recommend that it become law.

Gentlemen, my time has been limited or I would like to bring many more thoughts on this matter to your attention. However, I have brought with me a copy of the 5-year study of our interim committee of the Western States Association of Tax Administrators concerned with the activities of the Public Land Law Review Commission which I would like to officially file with you at this time. Should additional copies be desired, a few more could be obtained for you.

Again, thank you for allowing me to come before you today and I hope that our report and my comments will be of value in your future deliberations on this matter.

Senator FANNIN. Well, thank you, Commissioner Hazlett. We do appreciate your comments, and the report is welcomed and we will have it for the committee for the examination by any member. I know it contains valuable information because I have had the privilege of reviewing it.

I agree with you as far as Indian lands are concerned, and we are going forward with the hope that something can be done in that regard.

You mentioned in reviewing S. 268, "I especially like section 103(a)," and then you said, "from there on I am lost." That particular section was deleted, so I would like to read to you what is in there in its place.

Recognizing the nation's land is its most valuable national resource, and the maximum benefit to all from this resource can be achieved only with the development and implementation of sound and coordinated land use policy, declares it is the continuing policy of the Federal government to cooperate with state and Federal government, owners and users of the land and appropriate development at the appropriate level of government, including several of the policies that will govern the use of this Nation's land resources.

That has been changed and I wanted to call it to your attention. Now, understand that until this complete bill is finalized it is subject to change, and no doubt changes will be made.

We very much appreciate your recommendations; they will be given serious consideration, and I know you have worked on this

subject for many years and you have given a great deal of thought to what you have said today, and we appreciate it very much.

Mr. HAZLETT. Mr. Chairman, I have two other copies of that with me today, if you would like to have them.

Senator FANNIN. We would very much appreciate having the extra copies. Thank you very much.

The next witness will be Brian Massumi, of Friends of the Earth.

**STATEMENT OF BRIAN MASSUMI, LAND USE TASK COCHAIRMAN,  
ARIZONA BRANCH OF FRIENDS OF THE EARTH**

Mr. MASSUMI. I am Brian Massumi, Land Use Task co-chairman of the Arizona Branch of Friends of the Earth.

Friends of the Earth commends the sponsors of S. 268 for their recognition of the necessity of the formulation of comprehensive policies and deliberate procedures for land use planning nationwide.

Resource depletion, habitat destruction, despoilage of lands possessing esthetic and recreational value, and air and water pollution are among the multitudinous environmental dilemmas resulting from unplanned growth and development. Our ability to contend with these problems will depend largely upon future patterns of land use. Rational land planning consistent with environmentally, economically, and socially sound criteria is requisite throughout the United States. S. 268 is a laudable attempt to insure the evolution of such policies; however, FOE finds several obvious flaws which would render it ineffectual.

Two things are necessarily included in a successful plan to oversee a group of governmental bodies in the solution of a ubiquitous problem involving as many and as complex interrelationships as land use. They are, simply, adequate guidelines and universal application of those guidelines. As it stands, S. 268 is lacking in both.

Section 303(a) is of great importance. This section outlines matters which must be taken into consideration in an acceptable State land use program. In effect, it merely says that State programs must provide for the implementation of criteria designed to achieve their purpose. That is wonderfully noncommittal, ignoring the essential point: if nationwide planning is to have any value, each State must attack the problem from the same angles, with the same purpose, and to the same extent. The needed guidelines are not to be found in section 303(a), despite outward appearance. The bill should be altered to delineate additional factors to be dealt with by the States, as well as certain general standards. All this could be attained satisfactorily by (1) amending 303(a)(2)A to require that area of critical environmental concern be protected from damaging development or use; (2) striking the part of section 501(e) allowing States to define the extent to which the areas mentioned are considered areas of critical concern; and (3) adding to 303(a)(2) a subsection listing other considerations, only a few of which should be, the cost of flood plain development and means of restricting it, the value of watersheds and wetlands, how it could be assured that no development is begun that will unduly stress water supply, transportation facilities, waste treatment and disposal, or power supply.

Many uses of land have repercussions far beyond the borders of the State in which they occur. The policy—or lack thereof—of any State government may cripple the efforts of surrounding States to

control land use in conformity with the ecology of the region. The intent of the Land Use Policy Act could be seriously undermined if some States do not feel compliance worthwhile. The removal of the sanctions present in the committee version of last year's counterpart of S. 268 (S. 632) has reduced the present bill to an impotent, rhetorical statement of desire. The necessity of unanimous State cooperation is clearly evident, and it is beyond comprehension why the incentives which were originally included to induce acceptance of the terms of the bill have now been eschewed. FOE strongly recommends that these sanctions be reincorporated.

The foregoing comments comprise the most serious of FOE's criticisms of S. 268. Other, less basic, suggestions follow:

(1) Large-scale developments, including power projects, should be subject to licensing under a State-operated permit system. Proof that the proposed improvement would not violate the provisions of the State land use program should be a prerequisite of approval.

(2) An area of critical environmental concern should be redefined as an area "where uncontrolled development could result in significant (not irreversible) damage."

(3) The Secretary of the Interior should be given authority to declare areas of environmental concern if any have been overlooked by the State.

(4) Procedures for citizen participation in selecting environmental concern areas should be set up.

(5) Appropriations granted in S. 268 do not appear at all generous. Land planning deserves funding more fitting a program of its high priority.

In summary, Friends of the Earth is in complete agreement with the expressed purpose of the National Land Use Policy Act of 1973. We feel that significant modification will be necessary, however, if S. 268 is to be the catalyst for the actualization of sane, comprehensive planning. In particular, the expansion of State land program guidelines and the addition of sanctions are needed. We thank Senator Fannin for scheduling these hearings and receiving our views.

Senator FANNIN. Thank you very much. I do appreciate your comments.

The Friends of the Earth have a representative who appeared before the committee in Washington, and we do appreciate the additional information you have given.

I agree with you wholeheartedly that if nationwide planning is to have any value each State must attack the problem from the same angle with the same purpose and to the same extent. I can only add to that statement that Federal lands must be treated in a like manner. Is that your feeling?

Mr. MASSUMI. Yes.

Senator FANNIN. What is your feeling as far as Indian lands are concerned?

Mr. MASSUMI. I believe it is necessary to include all lands and a significant portion of the United States is Indian land, so I think it should be included.

Senator FANNIN. Thank you very much.

Our next speaker is John Overland. We will continue in just a moment. The TV operators have asked us to hold up for a few seconds.

[Pause.]

Senator FANNIN. Mr. Overland, I have your statement. Evidently you are not testifying on this legislation and I am sorry——

Mr. OVERLAND. Sir, I have congressional authority to do this testifying here.

Senator FANNIN. Mr. Overland, I would be very pleased to talk to you in my office or after the meeting, but we are hearing testimony on specific legislation and your statement does not pertain to that legislation. I do not want to overrule you.

Mr. OVERLAND. Sir, One-ninth of this State belongs to the school-children.

Senator FANNIN. If you have specific information that you want to divulge to the committee regarding this legislation, you are free to speak. But unless you are going to speak on this legislation, I just have to rule that you are out of order, sir.

Mr. OVERLAND. Could I ask a question about the Public Land Law Review Commission and your recommendation, sir, I believe it was in chapter 15, recommendation 601. Do you remember it?

Senator FANNIN. I am sorry, Mr. Overland, but I would be very pleased to meet with you and discuss the subject you have referred to in your statement but these hearings are for the specific purpose of hearing testimony on land use legislation.

I do thank you very much for being here, but that is the ruling that the chairman will make.

Mr. OVERLAND. I want to make my speech here, I waited for hours.

Senator FANNIN. The next witness will be Mr. Robert A. Jantzen, of the Arizona Game and Fish Commission.

Mr. OVERLAND. I thought I had representation here, sir, as far as a public citizen.

Senator FANNIN. You certainly have, Mr. Overland, if you want to speak on the subject of this legislation, I will be glad to have Mr. Robert Jantzen wait. But unless you desire to speak on this legislation, it will be necessary for me to rule that it is not in order to hear from you at this time.

Mr. OVERLAND. I would like to use my right to petition, the first amendment of the Constitution——

Senator FANNIN. I will be glad to talk with you after this meeting or meet with you in my office. I want to be fair with everyone that is involved in these hearings and have the testimony pertaining to the hearing. I do thank you.

Mr. OVERLAND. You refuse me to petition as I am entitled to according to the Constitution?

Senator FANNIN. I have informed you that I will be very pleased to meet with you after the hearing and I think that is sufficient. The hearing will not be of long duration, you will not be delayed, and I will be very pleased to talk to you after the hearings are completed. Thank you, sir.

Mr. OVERLAND. Thank you.

Senator FANNIN. The next witness will be Mr. Robert A. Jantzen of the Arizona Game and Fish Commission.

Mr. Jantzen, we are very pleased to have you with us today. I know of your fine work in this field of activity and we are very pleased to hear from you at this time.

**STATEMENT OF ROBERT A. JANTZEN, DIRECTOR OF THE ARIZONA  
GAME AND FISH DEPARTMENT**

Mr. JANTZEN. Thank you, sir. I am Robert A. Jantzen, director of the Arizona Game and Fish Department.

During the past decade, the department has followed with continued interest the urgent concern of many national and State leaders for a national land use policy. We have followed closely and participated in several public hearings of the Public Land Law Review Commission. In addition, we were involved and participated in several resource studies done for that Commission.

Obviously, we have a keen and inherent interest in a good national land use policy, because wildlife resources are dependent upon proper land-use management for their survival.

Arizona law charges the Arizona Game and Fish Commission and Department with a responsibility for the establishment of broad policies and long-range programs for the management, preservation and harvest of fish and wildlife resources in Arizona. Wildlife is defined by law in this State as all mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans.

Today, it is a recognized fact that management of the wildlife resources depends largely on the management and uses of land by man.

Without question, wildlife resources are highly sensitive to environmental change. When man changes a stream flow, alters the water temperature, clears forests, overgrazes the vegetation, drains wetlands, constructs highways and cities, or makes other changes which affect the environment of wildlife, then that resource itself is immediately affected.

In recent years, the condition and composition of wildlife populations have become an environmental barometer of environmental quality for man, because he, too, must have clean air and water, fertile fields, healthy forests, and adequate space to live. The third annual report of the Council on Environmental Quality speaks on this point where it states:

Wildlife are a continuous early warning system which can alert man to the first sign of danger in the environment. \* \* \* Any rapid, major change in species populations should be a warning to search out the cause.

Basically, the needs of wildlife are the same as those of man. Wildlife must have adequate food, clean air and water, space, and protection from nature's elements if they are to survive. So must man.

I mention man because his civilization has vastly altered the intricate complex of plant-animal communities in the United States. These alterations and changes would have been less drastic and less detrimental to the environment and to wildlife resources if we had a national land use policy or ethic 50 years ago, but it is still not too late to properly use our resources if we can see clearly and act quickly on this legislation which is before your committee.

Man, by nature or design, is a selfish species. We have not only developed a self-centered positiveness regarding our destiny, but we are equally sure of our course to reach that destiny. We have created a materialism over the years based on a philosophy that the universe revolves only for our benefit. Thus, there is no impartial adjudication of this contention and, being judges of our own course, we must stand or fall on the pattern of civilization thus created.

But, hopefully, our selfishness is changing—the pendulum perhaps is swinging the other way, and we are gradually accepting the basic tenet that we are not outside of nature, but a part of it. Gradually, there is an awareness of our relationship to land, water, vegetation, and the wildlife which live in our environment.

As our natural environment in America shrinks, Congress, State legislators, and even the private citizens are at last giving some serious considerations to the wild creatures that depend on this dwindling environment. Fortunately, the tremendous impact of civilization on wildlife resources has been softened significantly by Federal, State, and even private wildlife programs which are aimed at helping fit our remaining wildlife resources into the constantly changing conditions we impose on them.

The Congress of the United States has taken giant steps in the last decade to preserve our natural resources with passage of such legislation as the Public Land Law Review Commission Act, the Land and Water Conservation Fund Act, the Wilderness Act, the Wild and Scenic Rivers Act, the Water Quality Act, Clean Air Act, Rare and Endangered Species Act, the National Environmental Policy Act, and others.

Now we need Federal legislation, coupled with appropriate State land use legislation, to provide a national land use policy to plan for proper management and utilization of our 755 million acres of Federal land and to provide guidance for the management of 1.4 billion acres of State and private land in this country.

The national land use policy, as provided in S. 268, is directed toward the present and future use of our land resources which then must be balanced against the maximum potential of these resources, which is the key to proper land management for the future.

In Arizona, the game and fish department controls only a very limited amount of land—about 0.24 of 1 percent—for wildlife management purposes, so we must, by necessity, depend upon the land use management of others to carry out our programs and to protect and enhance the wildlife resource.

To insure proper recognition of this valuable resource, the department has entered into cooperative agreements with the Forest Service and Bureau of Land Management to manage wildlife populations on these Federal lands. Further, we work with the State land department, counties, local governments and private landowners relative to wildlife management on their lands.

In addition, in the past 3 months, we have had the opportunity to work with the Arizona Legislature in its efforts to establish a State land use policy, which we believe will complement the Federal legislation as envisioned in S. 268.

Thus, we feel that a good national land use policy will be good for man and the wildlife he deems enjoyable.

In conclusion, we believe that all must realize and accept the fact that life exists on land and water in measured quantities, true to the principles of cause and effect. Rules we do not make usually decide the outcome of our work and efforts.

We are encouraged by S. 268 and are hopeful that this national land use policy will provide the will and the means to accomplish these goals.

The Arizona Game and Fish Department, along with all concerned conservationists, will continue to follow this legislation closely.

Further, the department pledges to provide our expertise in wildlife resource management where necessary and within our authority to assist you in bringing your efforts to a successful conclusion.

Thank you.

Senator FANNIN. Well, thank you, Mr. Jantzen, and I want to express my appreciation to you, and I know the committee appreciates the work you have done, both locally and in the meetings we have had in Washington. You have been very helpful and I will ask you the same question that I have asked several speakers.

I ask especially of you, because I know you do have a great interest in or Indian people and work with them. Do you feel Indian land should be included under this legislation?

Mr. JANTZEN. Yes, without question. There are resident wildlife species on the Indian lands and the Indian lands provide quite a bit of habitat for the migrant wildlife. I think it is important, as other people have said, that all lands come under the Land Planning Policy Act.

Senator FANNIN. Thank you. I was especially interested in your comments because I know of your fine work with our Indian people. Thank you for coming.

Mr. JANTZEN. Thank you, sir.

Senator FANNIN. The next witness will be Carolina Butler, an interested Arizona citizen. Mrs. Butler, welcome to the hearing this afternoon.

Mrs. BUTLER. Thank you. My name is Mrs. Walter Butler. I just have the one copy.

Senator FANNIN. All right, proceed as you wish.

Mrs. BUTLER. I would like to say something which is not in my prepared statement. I would like to comment on a couple of things that have been said here today, and I know these are—

Senator FANNIN. Your complete statement will be made a part of the record.

Mrs. BUTLER. There are just two things. Some people here in Arizona state that we only have 15 percent of the land in Arizona which is privately owned land to develop. What these people never say is that 15 percent is about twice the size of New Jersey, and I would like to point out how many millions of people New Jersey has, so they have plenty of land to pay with.

The second point I would like to make is that, with regard to the Indian lands, I would like to point out to the committee that the first meeting that the State of Arizona had with the Indians was last September. The legislators met with the Indians from Arizona for the first time. So it was like they just discovered Indians in Arizona. So I think this shows a little regard for the Indians.

My prepared statement is as follows:

#### STATEMENT OF CAROLINA BUTLER, AN ARIZONA CITIZEN

My name is Carolina Butler, I represent no special interest group, nor am I with any organization. I was born here, I am a many generations Arizonan.

My remarks are going to reflect the elimination of the central Arizona project in any land use plan for the State of Arizona. I am fully confident that the citizens of Arizona will never pay for this reclamation project.

Three years ago in his state of the Union message, President Nixon said that the violent and decayed central cities of our great metropolitan complexes are the most conspicuous areas of failure in American life.

And that the result of a growing and shifting population was exemplified in the vast areas of rural America emptying out of people and of promises.

There is a similarity in these two problems of the United States as a whole and in the State of Arizona. There is a need for better distribution of population and economic growth. Our best land-use plan, then, can be guided by this goal not only for Arizona but for the whole country.

Here in Arizona we have managed to concentrate most of our people in two spots, Phoenix and Tucson. Because of the readymade markets, we continue to pile up people in this same place.

Arizona's population is presently around 2 million. The metropolitan Phoenix area now has 1 million, Tucson has 382,000. After this there are only 5 cities in Arizona with populations between 5,000 and 10,000.

We can see where Arizona has had no guidelines for growth. This is a lopsided distribution of population and economic growth and it is expensive. The taxpayers pay for it both ways. This is poor planning for our cities.

Now, if we take a look at the route of the CAP we see that at a cost of billions of dollars we are dragging more water into these same two cities, Phoenix and Tucson. Does that sound like good planning. Well, we are bringing in needed water to the thirsty farmer, you might ask, but what need? We already are paying him more than \$46 million each year for crops he does not plant, and besides that, what do farm subsidies do for the underdeveloped rural areas?

The rural areas in Arizona, as throughout the country, biggest need is jobs, not billions. President Nixon gave the answer: The answer is not to abandon growth, but to redirect it.

One, we need to place a limit to the size of our cities so they do not develop into monsters and turn around and devour us in excessive costs for freeways, urban renewals, heavy schools, perpetuating welfare rolls, and other costly big city ills. We need to place a limit on the size of our cities, to encourage the development of small communities who need growth.

By the way, 24 of Arizona's 60 cities do not have a doctor. So here is where growth would help him. That is just one example.

We need to place a limit to the size of our cities so that we can live without our environmental means.

Two, the U.S. Census Bureau says that we will have 100 million more people in this country between now and the year 2000. I want to suggest that great population increases be directed away from the scenic Western States. Let us direct people toward the Central States where they need growth, and where development would be an improvement on the land. None of us can deny that the greatest determinant of population shifts is the Federal Government.

All of the Western States have been blessed with much natural beauty and this beauty belongs not only to us but to all Americans. Most national forests, parks and natural monuments are in the Western States. We have a great responsibility to all Americans everywhere to

protect these areas. We need to ask ourselves: Will these beauty-rich States shelter millions upon millions of residents, or will their skies be clear, their lands clean, their waters fresh and pure? One thing is certain, it won't be both.

Three, I am distressed when I hear that the States will be given 5 years to come up with a land use plan. They have had plenty of time already. In the meantime the destruction of the scenic beauty of America goes on. It is even accelerated. Here in Arizona our State government keeps passing laws which give tax breaks to giant corporations to move here. The Arizona Department of Economic Planning and Development has a movie out selling Arizona all over. So we encourage people to move here before we even have controls.

The utilities companies keep active nationwide working to get new firms to move to Arizona. Our local government keeps relaxing our zoning laws. Arizona right now is a wide-open State with no controls. It is nothing less than an environmental disaster if we have to wait 5 more years.

In the meantime, the landowner and the land developer is not waiting. It seems that each week giant new communities here of 70,000 more residents, of 35,000 or 23,000 are announced. So you see how out of step are the two forces.

Four, I am also distressed when I hear lawmakers objecting to penalties against States that do not adopt land use legislation.

I don't know how things are in other States, but I know that here in Arizona things don't get done unless the Federal Government holds a whip. Time and again we are warned about the dangers of an ever-growing Fed bureaucracy, but the reality is that when local levels of government fail to respond to the needs of the people, the Federal level is forced to step in. Nowhere is this more true than on the issue of growth and related environmental matters.

We Arizonians saw this in the matter of our highways and the billboard law. Our legislature had done nothing until Mr. Volpe one day said he was withholding highway funds. Only now is our State legislature working on flood plain zoning because of the threat again of losing Federal money.

On water pollution, or local governments teamed up with the home-builders to fight septic tank limitations.

There is not a single Arizonan, whether he lives in the city or out in the desert, who is not sick and tired of what is happening to this beautiful State. I can't say it strongly enough: Nothing will get done in the way of State land use plans unless the Federal Government holds a whip.

Water pollution, for instance the county level that votes on Sun City zoning has warned them they are encroaching on Luke Air Force Base and noise levels will not be desirable for people moving closer there.

The city of Scottsdale, I myself have written to them of the incompatibility of having dense urban development and right across the street we have Indian farming land who are spraying their crops with pesticides and, of course, you have people complaining about pesticides. Here, again, the Indian is ignored.

We also have in the State of Arizona overgrazing of land. We don't hear too much of it, but there is a lot of damage that has been done.

There is not a single Arizonan who is not sick and tired of what is happening to this beautiful State.

So I can't say it strongly enough, nothing will be done in the State land use plan unless the Federal Government holds the whip. Thank you.

Senator FANNIN. Thank you very much, Mrs. Butler. It is very good of you to be with us this afternoon and we appreciate your remarks.

The next witness will be Kevin A. Dahl, of the Conservation Committee of the Maricopa Audubon Society.

#### STATEMENT OF KEVIN A. DAHL, CONSERVATION COMMITTEE OF THE MARICOPA AUDUBON SOCIETY

Mr. DAHL. I am Kevin Dahl. I would like to thank Senator Fannin for inviting the Maricopa Audubon Society to present testimony to the Senate Committee on Interior and Insular Affairs on Senate bill 268.

For 75 years the Audubon Society has concerned itself with all aspects of conservation, especially those matters relating to land use. We believe that S. 268, Senator Jackson's proposed Land Use Policy and Planning Assistance Act of 1973, is a constructive first step toward a needed system of land use policy.

We have some specific comments on a subject that we have been interested in for quite a while, the establishment of areas of critical environmental concern. We applaud the efforts of this bill to deal with this, but we have some suggestions that we think will help protect these areas better and involve the public more.

Concerned citizens should have a method of seeking designation of critical environmental areas. We believe that this right of petition should be included, perhaps by amendment to section 302(a)(8). The responsibility of the State land use planning board to hear and act on such petitions should also be defined.

In section 501(e) we think that some errors have been made. Firstly, the word "irreversible"—line 23, page 46—should be changed to "significant." Most damaged areas will never receive the attention needed to repair them because of the money or time it would involve. As to what the areas should contain, we suggest two additions: one, areas that contain major aquifers, and two, habitat lands for rare and endangered species or other wildlife of some significance. We do not believe that "State definition of their extent" is needed or wise.

The Secretary of the Interior should be in charge of review and implementation of areas of critical environmental concern of more than statewide significance, or in cases in which he deems the State to have been negligent. Because areas can be overlooked, he should have this responsibility for more than within 3 years after the enactment of this bill.

Public input is extremely necessary for this process to work, so provisions for its development should be included.

The implementation of area management should reflect the special values of the area, and can rely heavily on public involvement. Proposed development on designated or possible areas should be permitted or disapproved on a case-by-case basis, again, with adequate public input.

Funding is the key to success in land use planning; therefore, we ask that grants to States reflect the nature and extent of their areas of critical environmental concern.

Thank you very much for letting us air our views at this field hearing. We hope that they are of some help to you.

Senator FANNIN. Thank you, Mr. Dahl. Do we have your address for the record?

Mr. DAHL. I did at the beginning. I can do it again.

Senator FANNIN. Fine, thank you. I do want you to know we did hear testimony from the Audubon Society in Washington, and also, what you have stated in the first page, you should have a method of seeking designation of critical environmental areas. We have specific language in the committee print under consideration now. That doesn't mean it is going to be adopted but it is in the committee print and it is being given consideration.

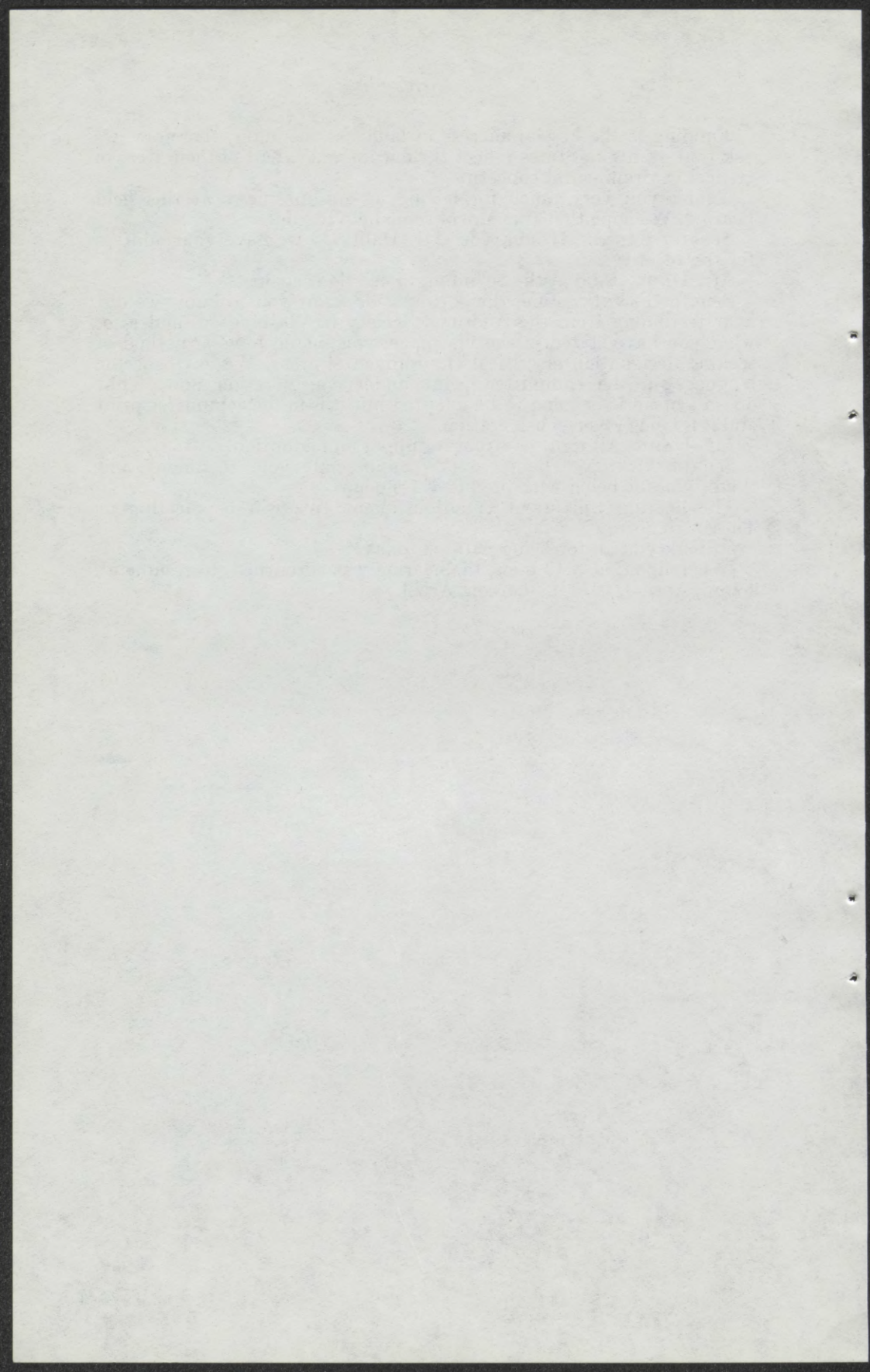
Mr. DAHL. All right, I strongly support its adoption.

Senator FANNIN. Thank you. We appreciate your testimony and thank you for being with us this afternoon.

The hearing will stand in adjournment. We will be meeting in Tucson tomorrow.

I thank you all for being with us today.

[Whereupon, at 3:45 p.m., the hearing was adjourned, to resume at 9 a.m., April 3, 1973, in Tucson, Ariz.]



# LAND USE POLICY AND PLANNING ASSISTANCE ACT

TUESDAY, APRIL 3, 1973

U.S. SENATE,  
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,  
*Tucson, Ariz.*

The committee met, pursuant to notice, at 9 a.m. at the City Council Chambers, Tucson, Ariz., the Honorable Paul Fannin presiding.

Present: Senator Fannin.

Also present: Gerald Gereau, professional staff member; Laura L. Beaty, staff assistant; and Fred Craft, minority staff.

Senator FANNIN. The hearings will come to order.

I apologize for the delay.

## OPENING STATEMENT OF HON. PAUL J. FANNIN, A U.S. SENATOR FROM THE STATE OF ARIZONA

It is a pleasure to be back in Tucson to participate in this very important field hearing on land use planning.

As most of you know, Senator Floyd Haskell of Colorado and I conducted similar hearings yesterday in Phoenix. We planned on having other Senators with us, but Senator Hansen, due to illness, could not be here, and Senator Johnston of Louisiana was forced to cancel out because of an important matter.

I was very pleased with the response and constructive suggestions made by witnesses yesterday. I expect this hearing to be equally productive.

Senator Haskell and I looked forward to being in Tucson and I am very pleased that I have been able to remain but it is unfortunate that we don't have other Senators with us today.

As a prelude to opening this hearing I want to thank Mayor Lewis Murphy and the Tucson City Council for making these magnificent facilities available to the committee today. I want to thank the staff of the city for their work and advance preparation in getting the chambers ready for the hearing. It is greatly appreciated.

Finally, I want to thank the ladies and gentlemen of the communications media for being here to report these proceedings, as representatives of the State and local government agencies who have come here to testify.

It is very important because you know these are the final hearings before we start the markup on this legislation.

I do want you to know that this legislation has been under consideration for some time. In fact, it has been discussed in the Congress ostensibly for the past 4 years. The 91st Congress, the first national land use policy bill was introduced in January of 1970. Four days of hearings were held and in December of 1970 the bill, substantially

amended, was taken to the floor by the committee but no floor vote was taken on that bill. The House committee took no action on its counterpart. The 92d Congress, S. 3354 was introduced by Senator Jackson in January of 1971. That was S. 632. President Nixon announced his own national land use policy proposal and on February 25 S. 922 was introduced by Senator Jackson and Senator Allot by request.

Although the committee focuses on S. 632 and S. 992, other land use proposals were considered. The proposals were the subject of 10 days of hearings. I do want you to know these hearings have been held. I am bringing out this information to let you realize that this has been seriously considered for some time.

In the 93d Congress on January 9 of this year, Senator Jackson introduced S. 632 as it passed last year. The measure bears a number of S. 268 and enjoys 26 cosponsors.

The administration bill, S. 924 was introduced by Senator Jackson and myself by request on February the 20th of this year. Four days of hearings have been held, February 6, 7, 26, and 27, and we have the hearings here in Arizona.

Yesterday in Phoenix and we conclude here in Tucson.

We have with us Mr. Gerald Gereau, professional staff member, U.S. Senate, Interior and Insular Affairs Committee, who will make a statement at this time.

Mr. Gereau.

**STATEMENT OF HON. HENRY M. JACKSON, PRESENTED BY GERALD R. GERAU, PROFESSIONAL STAFF MEMBER, U.S. SENATE, INTERIOR AND INSULAR AFFAIRS COMMITTEE**

Mr. GERAU. Thank you, Senator.

This statement is from Senator Henry M. Jackson, chairman of the U.S. Senate Committee on Interior and Insular Affairs.

The concept of land use planning certainly is not new, and we can proudly point to excellent results in every State in the union of wise and judicious use of our land and its beneficial development.

By the same token, we can point with some shame to the disgraceful results of no planning at all. Too often, in fact, we can find evidence of deliberate exploitation with no thought or care of the consequences.

Now America is aroused as it has never been before. I view this as a healthy sign. Not so long ago we proudly referred to the vast area between the Mississippi River and the Pacific Coast as the "unspoiled West."

But now we look at it with a more honest and realistic appraisal. And we must sadly admit that indeed there are large portions of this land which have been spoiled.

Furthermore, we must admit that this land, if presently untouched, is certainly in danger of being spoiled unless careful and thoughtful action is taken immediately.

As a westerner, as a U.S. Senator, as Chairman of the Senate Interior Committee, and as an individual who loves this land, I am deeply concerned. It was for this reason that I introduced Senate bill 268 as a vehicle to bring about a coordinated effort between the individual States and the Federal Government.

I am proud that my good friend, Paul Fannin, is a cosponsor of this measure with me.

I was informed by my assistant, Mr. Gerald R. Gereau, that the field hearing conducted yesterday in Phoenix by Senator Floyd Haskell and Senator Fannin brought forth considerable constructive criticism of the bill. I expect similar response from witnesses from southern Arizona.

This is the whole purpose of the field hearings—to get the views and suggestions of the people in the areas which will be affected by land use and its good or bad planning.

I chose Arizona as one State in which to conduct field hearings because I wanted the Interior Committee to have the benefit of Paul Fannin's expertise and sound, logical judgment. And because I have worked closely with Paul Fannin on major legislation during his 8 years in the Senate, and this association is one of which I am quite proud and from which I have benefited greatly.

Senator Fannin is a man noted on Capitol Hill for his careful analysis of every situation and as a man who is not stampeded into action by purely emotional issues.

There are few, if any, men in the Congress who work harder or who are more highly respected by their colleagues. There are few, if any, men who have greater respect and love for their State and Nation.

Senator Fannin recognizes that there are major problems to be overcome in formulating equitable land use planning. But he recognizes also that we cannot go backward, that we cannot stand still, and that growth and development are as inevitable as night following day.

There are some grave problems, but they are not insurmountable. I am optimistic because there are men and women of Paul Fannin's caliber in the Congress, in Arizona, and in the remaining 49 States, working together to achieve the desired results in land use planning.

Thank you.

Senator FANNIN. Thank you, Mr. Gereau.

Whether we know it or not, a decision on land use affects us all. Between now and the end of the century the statistics say we will build as much gain as we have built in our entire history. We will build a second America, as it were.

Much of that building will focus on our vast stretches of Western land. Every 10 years new homes and apartment houses, schools and hospitals, factories and offices, roads and railroads, shops and parking lots, gas stations and whatever, will cover some 5 million acres. An area the size of New Jersey.

Current projections indicate that the land space between Phoenix and Tucson will close so that geographic boundaries will blur and be as indistinguishable as those now between Phoenix and Scottsdale.

Our demand for goods and services are all interrelated with land use. There is a direct chain of economic consequences which has its beginning in the land.

Land provides the opportunity for investment of private funds for the production of useful goods. When such investment is made with the prospect of adequate return, jobs are created. Jobs will allow the creation of communities and family stability. Payrolls lead to taxes, businesses, and government.

Much has recently been said about our energy crisis and the requirements of a growing population and expanding economy. To take a

drastic illustration, the demand for electrical energy will double every 10 years and so will the amount of land needed for power sites and utility corridors.

Naturally the issue of land use is increasingly capturing the attention of Congress.

Let me tell you that I am disturbed by the lack of solutions to these many problems of land use. But let me equally announce that our Constitution reserves for the States all those powers not expressly enumerated for the Federal Government. The Constitution does not grant land use planning exclusively to the Federal Government.

The primary responsibility and authority for land use planning within a State is the prerogative of the State and Washington must not be allowed to usurp the last remaining vestigiate of State power.

The U.S. Senate has come to Arizona to hear the voice of its citizens. We need your clear vision and recommendations. The Senate is this very month considering two proposals. In fact, these hearings will finalize our efforts and your participation will prove very helpful in this most difficult task.

I believe we can come to grips with the competing interests—with industry facing environment, with population facing diminished resources, if we will only understand the interactions of the environment and the economy, the economy and society, society and its quality.

We are here to weave a solution to this problem and we need your help. I have on my left Fred Craft, Jr., counsel for the minority of the Interior and Insular Affairs Committee.

This morning we are very privileged to have the opportunity to hear from the Honorable Lewis C. Murphy, mayor of the city of Tucson. He will be our first witness. I know of his tremendous interest in this program and we welcome him to testify.

#### STATEMENT OF HON. LEWIS C. MURPHY, MAYOR OF THE CITY OF TUCSON

Mayor MURPHY. Good morning Senator, gentlemen.

We are delighted to welcome you to our community together with your staff. We feel particularly privileged inasmuch as we understand that Tucson will probably be the winding up point for the Senate subcommittee hearings and on that basis, of course, we hope that the comments of value which you receive from our community will be uppermost and freshest in your mind as you address the subject of revising Senate bill 268.

Senate bill 268 establishing a national land use policy is of major importance to the State of Arizona and the Tucson community. About 85 percent of the total land area of the State is owned or held in trust by the Government. Federally owned approximately 45 percent, Federal trust Indian lands, about 25 to 27 percent, State owned about 13 percent. The remaining 15 percent is owned or controlled by private individuals and organizations.

This large amount of public owned land provides both an opportunity and challenge. We are fortunate at this stage in our Nation's history when so many land resources have been seriously depleted in other States in having the opportunity to help shape and guide the ways in which unique land resources of this State are to be used.

The challenge is to develop the quality land use information. Planning processes, management tools and programs which will result in the highest benefits to the residents of Arizona, both present and future. As one of the most rapidly growing communities in the State and the Nation, Tucson has long recognized the need for more effective land use planning and management.

Surrounded by a fragile desert environment, having some of the most unique vegetation in the world, favored with an excellent climate and rich in natural resources, this community is now able to cope effectively with the complex problems of rapid urbanization.

We recognize the need to develop a comprehensive approach to land use planning and management which not only provides for the future growth and development of our city but which is also highly sensitive to the natural assets of this area and the maintenance and enhancement of a quality environment.

This approach requires that land use planning actions at every level of government, Federal, State, and local, be based upon coordinated plans and policies consistent with sound planning policies and objectives.

Consequently, we support the basic findings and purposes of this bill as it relates to the establishment of a national land use policy. The provision of financial assistance to States in developing and implementing land use programs and its concern with activities and actions which have a substantial impact on the use of land.

In addition, we most thoroughly endorse the concept that land use planning and management are primarily the concern of State and local government and require the review and participation of the general public.

I might add at this point, Senator, that there was a comment made in our morning newspaper today in which testimony elicited during yesterday's hearings in Phoenix indicated that perhaps section 103, which does set forth this concept, had been deleted and in fact in talking with staff of the Interior Committee, I find it has not been deleted but has been reworded and that is the thrust and the intent of maintaining the integrity of the State and local government is still very much a part of this bill.

I feel this is critically important and must be retained in the bill and I would refer specifically then in that instance to page 20, line 12, section 13, as being of key importance in retaining this integrity.

In a sense a need for a national land use policy is indicative that States have on the whole failed to develop the legislation and policies to effectively plan for urbanizing areas and areas of critical environmental concern.

Although the State of Arizona has established the Department of Economic Planning and Development, it has not yet developed the mechanisms and policies essential for land use planning.

Even the most basic of planning enabling legislation at the State level, for example Senate bill 1026, has not yet gained the necessary support for passage at the State level.

It is important, we feel, therefore, to back every positive effort that will improve the land planning process. Senate bill 268 is a major step in the right direction and deserves our community support.

In fact, with the inclusion of an additional provision, this bill

could well be of landmark significance for land use planning in Arizona primarily and certainly in other States also.

I refer specifically to the following suggestion. Provision should be made in the bill for the comprehensive land use planning of all lands in the State of Arizona. This should include only public owned land as specified in the proposed legislation, but also all lands in trust such as Indian reservations. It is important to remember that in excess of 25 percent of Arizona's land is Indian tribal land.

That major planning problems exist on these lands and that many are in close vicinity to major urban centers and consequently have a high potential for future development impact.

In this connection, gentlemen, I would refer specifically to page 18, line 3, and suggest that the provisions of that reference include Federal, Indian, and State lands, so that in fact the bill's impact would cover a comprehensive program for all the State lands in our State.

In its present form the bill also excludes all land not falling within one of the four areas of critical concern and of not "more than local significance."

Thus land not designated as one of the following areas would be excluded from the land planning process. I refer to the four references made in the bill and they are as follows:

1. Large scale development.
2. Development and land use of regional concern.
3. Impacted key facility areas.
4. Areas of critical environmental concern.

This is potentially a serious deficiency because criteria and guidelines specifically defining the above areas of concern have not been explicitly set forth.

Consequently, land use planning at the local level, particularly within urban or urbanizing areas, such as Tucson, would probably be excluded from the land planning and management process as presently designated in Senate bill 268.

In conclusion, we commend your efforts, Senator, and those of your colleagues. We look forward to congressional approval of this legislation. Hopefully passage of this bill will encourage concerted actions at the State and local level, will stimulate improved State and local legislation and responsive to the needs of rapidly growing communities and will establish the common goal of coordinated and comprehensive land use planning by government at all levels in order to achieve economically and socially viable communities and at the same time maintain a quality environment.

Thank you very much. That concludes, Senator, my formal remarks.

I would be pleased to comment to anything included in them or respond to any questions should there be any.

Senator FANNIN. Well, thank you very much, Mayor Murphy, for a very objective statement.

I am certainly in agreement with you that we should have all the lands included. It would be very unfair to our Indian people if their lands were not included and we had testimony from Paul Smith, the Chairman of the Pima Salt River Indian Tribe, and that tribe has lands surrounding Scottsdale in the vicinity of Mesa, Ariz., and he stated they should be included and he hoped it would be worked out.

We do have a problem in that regard as far as treaties are concerned, but we are going to attempt to overcome the problems involved.

We talked with administration officials in the Interior Department and we hope something can be solved before the bill is in its final form.

As you know, the bill now is not in its final form and I am sorry we do not have extra copies of our committee print. But as you stated, the changes have been made and some recognition has been given to what you have indicated is essential and that is to have the local government input.

Mayor MURPHY. I know no one recognizes more than you the unique situation is which Arizona finds itself with respect to approximately 15 percent of our entire land in the State being privately held.

It would be ludicrous, it seems to me, to make legal provision for land use planning which excluded 85 percent of our State in terms of the need for comprehensive planning.

So that is the thrust of our concern.

Senator FANNIN. I understand, Mayor, and I certainly agree with you. About 27 percent of our land is owned by our Indian people. It so happens much of this land lies in and around some of the largest cities in the State and it would be detrimental, as I said, to cities not to have the control and the opportunity for development under a planned program.

So we are very anxious to have those lands included. What funding level would you recommend? We have had testimony from some mayors that feel that the funding level should be increased. I don't know if you are familiar with the funding level or not.

Mayor MURPHY. I am basically familiar with it, Senator. The thrust of my comments are more, rather than to get specific with respect to funding levels, our thrust is let's get on with this legislation.

Our Government has been operating for some 200 years, in our State since 1912, and up to now neither the State nor the Federal Government has addressed this subject matter.

I frankly don't care what the funding level is if the legislation will do what we anticipate it will do and that is to require or encourage the State of Arizona and its local municipalities to get on with getting the job done, which is long overdue.

Senator FANNIN. I agree that we have not at the Federal level furnished the leadership that should have been furnished over the years. The Governor was critical in that respect yesterday and I agree with him.

We in many instances are criticizing the States and local communities because they haven't come forward, but I feel that we, too, have been very negligent.

The bill before the Senate calls for sanctions or will call, I think, when it comes out of the committee, although I am opposed to that, it calls for sanctions to be imposed on the States. Namely, water and airport and highway funds. Are you in favor of that?

Mayor MURPHY. Let me say I am not excited by that type of negative sanction. I feel, however, in reviewing the bill as a whole, at least in the form in which we have had an opportunity to review it, and we are mindful of the fact that our information is not current, but it seems to me that the negative sanctions of withholding certain

Federal funds from States not developing and establishing land use processes and programs is almost nil.

Again, I think it is important that we have this legislation and if it is necessary to accomplish that purpose that there be negative sanctions withholding certain Federal funds, then I would say so.

I personally am not excited by the prospect of creating a "club" threat which negative sanctions do create. But, again, I think the mere fact that this legislation has been introduced at the Federal level indicates substantially the deficiency at the State level in not having addressed the problem heretofore.

Senator FANNIN. Well, I know that we have problems as to the understanding of just what is involved in the bill by many of the people. They do not realize that what we are trying to achieve is the coordination of effort with the local community and the Federal Government because it is so essential, especially in the Western area where so much Federal land is involved.

If we do not have this coordinated effort, it would result in inequities.

We do have the problem in some of the cities where they must acquire land and the only land available is Federal land and with the land exchanges we have not even made the selections that are still open to us.

We do have a great need, I think, for encouragement of a progressive program. I note from your statement you feel this should be accomplished by the cooperation of all the entities involved. We have some general recommendations.

One suggestion is that cities should be encouraged and allowed to exercise extraterritorial powers.

The reason given is that development in the unincorporated areas of cities is detrimental to orderly development.

Would you agree with that?

Mayor MURPHY. Yes, sir. I think you talked about one of the most obvious examples, particularly in our community. Our jurisdictional boundaries are surrounded in many instances by the State owned or federally owned lands. It is mandatory, therefore, that the mechanics of intergovernmental relationships at the local and State and particularly the Federal level be hammered out in such fashion as to allow the greatest flexibility possible for the urbanized area.

Again, we feel that the passage of Senate bill 268 will be the emphasis of the thrust which will finally insure that we are getting the proper kind of legislation directed towards those ends at the State level.

Senator FANNIN. Very good, and I will say that you are very progressive and enlightened.

Here is another recommendation that fits right in with what you have been saying. Should cities be authorized assistance in land acquisition and preservation? Should cities have authority to engage in advanced land acquisition or land management. Should they also receive State and Federal assistance to overcome the physical dependence on the property tax?

Do you agree with that recommendation?

Mayor MURPHY. Yes, sir, very much so.

Senator FANNIN. Well, we very much appreciate the excellent cooperation you have given us in arranging this meeting and for furnishing us with this very valuable information. At the end of the hearings it will be much more in evidence.

Mayor MURPHY. Thank you for the opportunity of permitting me to participate.

Senator FANNIN. Thank you.

The next witness will be the Honorable Ron Asta of the Pima County Board of Supervisors.

#### STATEMENT OF HON. RON ASTA, PIMA BOARD OF SUPERVISORS

Mr. ASTA. I am Ron Asta, a member of the country board of supervisors.

Mr. Castillo sent me on behalf of the rest of the board and himself so I am speaking for the full board.

We would like to applaud you and the many Senators who sponsor this hearing. We thank you for holding these hearings in Tucson where we think the action is and where the action should remain.

We would also like to applaud the Senators for recognizing there is a need for the national land use policy because there is no question that controlled growth should be a No. 1 priority for our local and regional communities.

I would like to applaud the Senators who have recognized the need for Federal assistance to State and local communities rather than attempting to dictate policies and programs at the very beginning.

We would like to applaud the Senators for subjecting Federal lands to controlled use desired by State and local communities. In this respect your legislation is far and above that of the State of Arizona which attempted to preclude State of Arizona lands from any kind of control.

Finally, we would like to applaud the Senators for going as far in this proposed bill as authorizing the prohibition of use of land in areas of critical environmental concern.

I think we need that kind of authority.

I do have to take some issue, though, with some parts of the bill, and I hope you will accept it in the spirit of constructive criticism because that is the way it is offered and I hope we haven't misunderstood the bill in our reading of it.

But I am concerned about section 302-B which requires the Governors to establish State land use planning agencies and section 403 which sets up ad hoc Federal-State joint committees which are fully staffed.

I think we think that the procedures and the organization and the duties outlined for these two agencies will only add confusion and delay to local planning programs.

Now, I don't just want to make that remark out of the blue. I would like to give you some of the local planning agencies history here to show you what we are up against.

In 1963 there was a city-county planning department. It was split into two separate departments because the city manager at that time wanted more control of planning to meet certain Federal urban renewal requirements. So we had one planning agency and went to two.

The 1962 Federal Highway Act said we had to have cooperative coordinated transportation planning by 1965 so we created the Tucson Area Transportation Planning Area locally.

So under the guise of cooperation and coordination we have gone from one to three agencies.

Then came the 1966 Demonstration Cities Act, which said we had to have cooperative regional review of programs. So we established a council of government, known as TAG, and here we have gone from one to four planning agencies due to Federal legislation.

A short time ago the Model Cities program gave certain regional reviewing powers to the mayor or chief executive of this region—five agencies.

Somewhere during this time the State department of economic planning and development was also given regional reviewing power—six agencies.

Now, Senate bill 268 suggests or requires a State planning agency be set up under the Governor—seven.

Under the proposed State land use planning bill which we have seen from the State of Arizona they propose setting up regional reviewing agencies covering one or more counties throughout the State. Now, the possibility of eight planning agencies.

In addition, your Senate bill talks about setting up an ad hoc Federal-State joint committee to work out common problems—nine agencies. So I just think under, the guise of coordination and cooperation, we are going in the wrong direction in this community because of the Federal mandate for cooperation.

We have gone from 1 to 9 planning agencies that could possibly be affecting our growth and development, and if you include the Federal Office of Land Use Policy Administration, we have 10.

I don't think we are going to be able to work efficiently in that direction. It seems to me, if we want cooperation and coordination, we have to stop the proliferation of agencies and consolidate some that we do have, or establish working agreements among the different agencies—not create new ones.

It is clear what we really need in this community is additional State and Federal authority and laws to get the job done. Not new agencies. We think we need National and State goals for growth and development to serve as an umbrella, to serve as guidelines for our work here.

So what I think should be done then is, States should be asked to establish short-term factfinding commissions to come down and talk and work with the local agencies already established, to talk to and work with the citizens already in our community who are concerned and discover what it is in the way of legislative tools that we need and what kind of goals we want for our State and Nation.

The kind of tools we are talking about may include the legislation to give us the right to purchase development rights from private property owners to hold down development where it is not needed.

We need the kind of tools to afford tax breaks to people who own land in areas where we don't want development to occur for many years.

On the same hand we need authority to assess tax penalties usually in areas where housing is needed rather than on the fringes of our community.

Either we need to find ways to put more financial burden on developers to pay for the services and we need the right kind of programs to assure that low-income housing can be afforded to people in all areas throughout our community without tearing up the scenic desert we have.

The kind of goals that might come out of such a factfinding committee would be to say it is within the national interest to have population limits on cities. That we are going to reverse dollar expenditures on roads and be more favorable toward mass transportation. That it is in the national interest not to have any more sprawl.

So I think if we took this approach in a State-by-State factfinding commission, short term, that once all of this study was completed the States and the Federal Government would be in better position to know what kind of legislation we need, what kind of planning assistance funds are needed for areas in critical trouble, and what kind of goals we should have for the future growth of our country, our State, and our Nation.

Thank you very much, Senator.

Senator FANNIN. Thank you very much, Mr. Asta.

We welcome your constructive criticism and your remarks are very much appreciated. We certainly know you are in direct contact with the people and furnish us with input that perhaps is not otherwise available.

I do wonder—I don't think you intend it this way, but we did not desire the legislation to preempt local decision. I am sure you don't want that either.

Mr. ASTA. Yes, I understand that.

Senator FANNIN. You are correct that these numerous agencies are almost unworkable. Our goal is to consolidate, not expand the proliferation of agencies or organizations which would be involved. We are hopeful that within the concept of this legislation we will assist the State and local communities to accomplish that objective.

We, of course, do have power in that regard because we don't want to be in a position where the Federal legislation is mandating different requirements. Though I certainly appreciate your remarks and the frankness in which you have presented them. You have made a very valuable contribution to this discussion and I will remember your testimony; we will look forward to working with you in the future and hope that we can streamline this complex program.

Mr. ASTA. Thank you, Senator, thank you for your consideration.

Senator FANNIN. Thank you.

The next witness is Mr. Ed Garcia, Pima County Planning and Zoning.

Mr. Garcia, I understand you are the director?

Mr. GARCIA. Yes.

Senator FANNIN. We welcome you here this morning.

#### STATEMENT OF ED GARCIA, PIMA COUNTY PLANNING AND ZONING

Mr. GARCIA. Thank you, Senator, and thank you for coming here and giving the citizens of Pima County and Tucson an opportunity to give a little input.

My comments will be short and to the point. The innumerable controls now facing planners over the country are such that we are now doing more paperwork than planning—this is not to say that this bill does not provide for some needed legislation.

However, it is my firm belief that the further removed you are from the problem the less likely a good solution will result. I am speaking not only of controls at the Federal level but also at the State level.

This has been obvious to me over my 20-odd years with Pima County. There are existing controls today that could be applied on such things as the interstate sale of land which presently is booming over the country and is designed to do nothing more than generate more problems for the future. I am sure that existing Federal and State legislation could control such developments.

The administrative gyrations required to put a program underway today probably costs as much as the program itself.

What we really need today are for the local jurisdiction to be provided the tools to do the job with a minimum of administrative interference.

A word on the positive side. After having only a short time to review this bill it seems to me to be one of the best to come along in a long time.

I would suggest, however, that more emphasis be given to the role of the local jurisdictions, especially the counties which have been at the mercy of the State legislature, the counties continually are handed jobs to do by the State but rarely the wherewithal to do it with.

We also need to recognize that the continual pyramiding of planning agencies add to more administrative costs that leave less planning dollars, and, after all, this is what it is all about.

I really don't like to take issue with those legislators trying to resolve the problems of this county, but, gentlemen, take it from a planner that has been on the line a long time. We must start simplifying instead of complicating.

I can visualize that the real law is not what we are reviewing today, but the endless guidelines that will be promulgated as a result of this act.

I am not here to try to dissuade you from doing something positive, but I do want to impress upon you the importance of providing the right jurisdictions with adequate controls without further complicating the existing problems.

Those are the end of my comments, Senator Fannin.

Senator FANNIN. Thank you, Director Garcia.

We very much appreciate the comments and your concern. I agree with you the further removed you are from the problem the less likely a good solution will result. That is why we come to you, and that is why we appreciate your testimony.

We are all concerned about the administrative areas that you refer to, which could require an extensive program, but we are trying to reduce the complexities of the administrative procedures. We hope that can be accomplished in this legislation.

You worked with the planning here in Tucson and naturally have extensive experience in this regard. You are concerned about whether or not the State will give the local community sufficient assistance in their program.

It is our hope that with this legislation there will be incentives in that regard. Have you checked into the financial assistance that will be given under this bill?

Mr. GARCIA. I haven't had an opportunity, Senator, to be frank with you.

I was informed yesterday, before noon yesterday, that I was supposed to review this bill and come before you to testify. But let me say this. I think the real important area, of course, is the idea of the power to the local jurisdictions.

We operated for a long time at relatively low budgets. We don't mind that. We will put in our own time if necessary. Unfortunately I cannot say, yes, Senator, this looks good or this doesn't. I really haven't had a chance.

Senator FANNIN. Well, I can understand that. If you have any thoughts in the next couple of days, if something comes to your attention that you would like to point out to us, we would appreciate hearing from you. Your comments are certainly helpful and I realize it is at your level that the work must be done which is so vital to the success of this program. We must have a coordinated effort with the local community, the State, and the Federal Government, especially as emphasized here in Arizona where we have so much Federal land.

Thank you very much, Director, for your testimony.

Mr. GARCIA. Thank you very much, Senator.

Senator FANNIN. The next witness will be Dr. Carl Keppler, the Save Our Community organization.

Dr. Keppler.

#### STATEMENT OF DR. CARL KEPPLER, SAVE OUR COMMUNITY

Dr. KEPPLER. Thank you, Senator Fannin.

I am a member of and speaking for the Tucson Mountains Homeowners Association and also for a list that I have here of all the major homeowners associations in the Tucson Valley.

Senator FANNIN. Dr. Keppler, could you supply for the record your address?

Dr. KEPPLER. My own personal address?

Senator FANNIN. Yes, and I understand you are a professor at the University of Arizona.

Dr. KEPPLER. Yes. 4025 West Ironwood Hills Drive, 86705.

Would you like me to read the names of the associations that have asked me to speak for them?

Senator FANNIN. We would like to have that for the record, yes.

Dr. KEPPLER. Buena Vista Estates, the Coronado Foothills Estates, the Catalina Foothills Estates, Tucson Mountains Association, which I particularly represent, Shadow Rock Estates, the Shadow Mountain Estates, Belair Estates, Tucson County Club Estates, Rancho Verde Estates, the Del Oro Estates. All of these are homeowners associations, the major associations of homeowners and property owners in the vicinity of Tucson.

Senator FANNIN. Doctor, for the record, if you would explain how you have been requested to speak for these associations?

Dr. KEPPLER. I am very glad to say that these associations for many years have begun to collaborate with one another in zoning matters and I don't think there is any particular mystery about it. I was simply asked to make this presentation in order to save time at this hearing, so there wouldn't be a presentation by one or another at the hearing.

Senator FANNIN. All right.

I just wanted that information for the record.

Dr. KEPPLER. I haven't any prepared remarks. I simply wanted to say and to explain that all of us homeowners in these various associations very heartily approve of and very strongly support the objectives of the Senate bill 268.

I have listened to the various remarks that have been made, particularly those by Mr. Asta and Mr. Garcia and the request for a streamlining for a specification of functions which seems to be a very reasonable request, which you yourself have pointed out.

I don't suppose there is any place in the United States where such a central, coordinated, cohesive formulation of the national land use policy and encouragement to the States to formulate their own policy is more vitally needed than it is here in Tucson.

For many years those of us who have lived a long time in Tucson, and I am one of them, have watched the growth of the greater Tucson area.

We have watched it not altogether with pleasure. I don't mean the growth itself, which of course has been enormous. I mean because of the nature of the growth, the spreading out in a chaotic, patchwork pattern, over the entire Tucson Valley.

We have, as you know, a county zoning code, we have had it since the 1930's, designed to promote orderly development. By that I mean maximum density in the urban area and a gradual lessening of density as one goes out to the outlying districts.

We have also specific areas designed to implement this central zoning code or plan.

Unfortunately, these plans have not in all cases been very carefully studied or conceived. I don't mean by this any slur at the planning and zoning department, simply a matter of tremendous hurry, a matter of insufficient staff and insufficient funds.

These plans furthermore are not altogether inconsistent with one another and what is worse of all is that they have not been observed.

As a matter of fact, they have been broken so often that what we have left is mostly not plans but fragments. I suppose more than half of the zoning cases that come up are proposals to amend existing plans and a great many of those are granted. Very often decisions are made on the basis of nothing much more enlightened than a compromise.

This kind of thing is bound to happen when there is no better criteria to follow. As a result we have grown and continue to grow without any systematic plan to guide us, without any systematic research on which to base the plan, without adequate attention paid to the plan that we have got.

There have been recently very praiseworthy moves owing in large part to the fine work Mr. Asta has done in the direction of comprehensive planning by county and city government together.

These, however, will be a long, slow process at best and a very uncertain one and the emergency, as you all know, is now. There is enough zoning allocated right now for the greater Tucson area to take care of the needs of a community of at least double or triple the population that we presently have and yet the pressure to downgrade existing zoning continues and continues with, I am afraid, disturbing success.

The result is that, for the most part, Mr. Asta has mentioned this land at the urban center which is available for development has been ignored and there has been a steady pressure outward into the outlying districts, the suburbs with ever-increasing density, in order to take advantage of the lower property costs and the lower taxes.

Now, the motives are perfectly understandable. The results are most unfortunate and most undesirable.

For example, one of them is the esthetic result or rather what I might call the antiesthetic result. In view of the hit or miss expansion in which we have indulged ourselves, what we really have is not so much of an urban sprawl as an urban splatter. Sort of splashing out in all directions with the result of little islands of close packed housing, frequently out in the heart of the desert wilderness, miles from one another, miles from the city center.

The housing of such projects, in view of the fact that one's motives for moving out of the city is to take advantage of the fact that the country still after all these years has no county building code.

The housing is frequently of deplorable quality and all one needs to do is drive around a bit in the county to see what I mean.

Along with the residential development, always the demand for commercial development to serve it. Well, we have now enough commercial development zoned to satisfy the needs, I would say, of Manhattan Island and still the demand for it goes on. This is a most unwholesome condition.

A second result which is closely tied up to the esthetic one is the anti-ecological one. We have, as you know, the environs in Tucson as you have the environs in Phoenix, some of the rarest and wildest variety of desert in the world, supporting a very surprisingly wide variety of wildlife. Rather we have had. It is all rapidly disappearing before the onslaught of the bulldozer.

Now, in this part of the country as you very well know, when this kind of thing is gone it doesn't come back. When nature's vegetation is knocked down and topsoil is scraped away, you cannot replace it. All you can do is substitute something else. Bring in some foreign shrubs or trees which will have a precarious short-lived existence, cover up the dust with cement and that is not a very good substitute.

There has been a great deal of talk about a lip service to the concept of a greenbelt to surround the city along the base of the mountains.

Unfortunately, this greenbelt, by the way, of course, would be closely tied in with the problem of pollution serving the needs of the lungs of the city to breath with. Unfortunately, while the lip service has gone on so has that suburban splatter I have talked about which has already reached and intruded upon the base of the mountains.

Very soon, unless something is done and quickly, the only thing that is green around Tucson will be green paint. This suburban splatter has already begun to spread up the sides of the mountains, except in places where the Federal Government has wisely stepped in and established national parks.

Of course, what you can see is not the only ecological aspect of the question. There is also the very vital question of water resources. I have talked to a number of hydrologists about the problem. A good deal is being done. It is not being done in any coordinated way, however.

We need a central coordinated study and we need the means for such a study and we need the encouragement to apply the results of this study to the land use problem.

There is the water table, the water quantity is fixed. It is rapidly going down, in many places several feet a year. It is going down, and this perhaps is even more disturbing, not only in quantity but also in quality.

As population grows, as drainage increases and effluents are poured into soils, they drain ultimately in the only place they can drain, the underground rivers which, of course, constitute our water supply.

Along with the water goes the problem of air pollution. I am not going to take up your time to discuss it because you are all very familiar with the problem, but let me simply say the decentralization of the city is simply an invitation to more and more driving in order to get back and forth between the outlying suburbs and the city, with the result of more and more pollution being poured into the air.

I have here an excellent article written by W. K. Hartmann, and I am going to turn it in for the record based on a very careful study made over the last 10 years.

[The article referred to follows:]

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## STATEMENT ON DESERT USE

As a researcher in the area of air pollution and as a member of the Tucson Mountain Association I would like to record these notes on desert use.

### I. NEW DATA ON INCREASING AIR POLLUTION IN TUCSON

I have recently published in the Journal of the Arizona Academy of Sciences a paper (attached) showing that (1) air pollution is increasing in the Tucson Basin and has been doing so for ten years, (2) smelters are responsible for a regional background of air pollution and visible haze in southern Arizona, and (3) the urban concentration of cars in Tucson produces an easily detectable rush-hour concentration of smog. These data show that the Tucson area has already exceeded the size range in which pollution is diluted and carried away by fresh air without noticeable effect. Further spreading of urban Tucson will cause more noticeable pollution and destroy the environmental benefits which are the basis of Tucson's tourist business. The above research was carried out while the writer was a member of the Tucson Advisory Committee on Air Pollution, appointed by the Mayor and City Council.

### II. THE FAILING CONCEPT OF A GREEN BELT

National as well as local discussions have raised the concept of providing green belts of natural vegetation around American cities. Several local successful Supervisorial and other candidates espoused this concept in Pima County. Tucson, being surrounded by deserts and mountains, is in a particularly favored position to realize a green belt. Nonetheless, we are now at the eleventh hour and there is every indication that Tucson's potential green belt will be destroyed by urban sprawl. For example, any rational green belt would have to run across the narrow corridor northwest of the city between the Tucson Mountains and the Catalinas, where Interstate 10 runs toward Phoenix. However, construction of mobile home parks, apartment complexes, and single-unit housing accelerates in this area. "Rancho Romeros", a small city of 17,000 inhabitants, is being planned for the lush northern slopes of the Catalinas just north of this corridor. There is no indication that enough desert can be saved to provide a green belt across this corridor, and without such a belt, Tucson's urban sprawl is bound to spread north into the Canada del Oro valley and around the north sides of the Catalinas and Tucson Mountains. Similarly, the Tucson-facing slopes of the Tucson Mountains would have to be part of any rational green belt. Many Tucsonians think that these slopes, which provide a beautiful western skyline for the city, are protected from developers' ravages by being included in the Tucson Mountain Park. This is incorrect. In fact only 4 out of 11 names peaks in the range fall inside the Park and Monument. For the most part, the Park and the Saguaro National Monument include only the western slopes, away from the city. Already we can see from downtown the encroachment of housing toward the ridge crests, and Tucson residents are in danger of facing the kind of destruction.

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which Phoenix residents discovered only too late on Camelback Mountain. More substantial support is needed for the green belt concept than verbal backing.

III. RESTRICTIONS NEEDED ON DEVELOPERS

In an era when we are beginning to appreciate the exhaustibility of our natural resources, it is absurd that developers of suburban areas around Tucson routinely level enormous stretches of deserts, planing off all vegetation over many acres. There should be legislation to prohibit clearing of more land than is necessary to build houses and make them accessible by car, particularly in view of the facts that (1) bare land causes dust pollution and (2) eventual residents must consume prodigious amounts of water to cultivate new growth on their barren lots.

*W. K. Hartmann*

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Senior Scientist

## POLLUTION: PATTERNS OF VISIBILITY REDUCTION IN TUCSON

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**INTRODUCTION.**—Recent years have seen some controversy carried on in the public press by various sources including professional meteorologists over the question of visible smog in Tucson. It has been questioned whether such artificial haze has been increasing measurably over the years and even whether it exists at all. No chemical, spectroscopic, or other physical tests have determined precisely the sources for constituents of such hypothetical haze, although possible sources discussed in the press have included the smelter emissions, automobiles, dust, etc.

The objective of this paper is to determine whether such artificial haze exists and if so, what its time-distribution has been and what clues are thereby afforded as to its origin. Portions of the Analysis of Weather Bureau and Health Department Records were originally prepared for the Tucson Advisory Committee on Air Pollution of which the author is a member; these have been presented to the Tucson City Council as part of a document prepared at their request (Caldwell, *et al.*, 1971).

### ANALYSIS OF WEATHER BUREAU AND HEALTH DEPARTMENT RECORDS: 1957-1970.

—The initial part of the study involved a review of Weather Bureau visibility records over the past years. The goal was to determine whether there has been an increase in the incidence of tenuous haze layers. A "sub-60-mile hazy day" was, therefore, defined as any day with visibility less than 60 miles. The percentage of hazy days during each month was then determined from U. S. Weather Bureau records using observations at 8:00 A.M. and separate observations at 5:00 P.M. This approach is similar to that of another study by Green and Batan (1967) who analyzed the infrequent days of exceptionally poor visibility, i.e., visibility 30 miles and less. They found an increase in the frequency of these very hazy days from a 1949 average of about 13 days/year to a 1965 average of about 21 days/year. Green and Battan did not identify the cause of this increase except of point out that there was correlation with population growth.

Figure 1 shows the monthly frequency of "sub-60-mile hazy days" as a function of time from 1957 through 1970. It is noted that while scarcely any months had more than 30% "hazy days" in the later 1950's, virtually all months had more than 30% "hazy days" by the late 1960's. It is concluded that the incidence of "hazy days" has increased since the late 1950's.

A change in the Weather Bureau location in 1959

affected the choice of distant mountains used to determine visibility distances. A question has been raised whether the 60-mile data would be affected by this change. Detailed discussions with the Director of the Weather Bureau station at the Tucson airport indicated that his change had minimal effect. This point has been reviewed in detail by Hartmann, Lockwood, and Salanave (1970), and it was found that if "hazy days" are re-defined as days with visibility less than 50 miles, then the affect of the change in target mountains is eliminated. Therefore, a new analysis was made with "sub-50-mile hazy days" and this analysis is shown in Figure 2. As can be seen, the general increase is confirmed. A disadvantage of working only with lower visibility thresholds is that the incidence of such days is less and the statistics become more "noisy," as can be noted from the Green-Battan data on 30-mile days. Therefore, both 60-mile and 50-mile data are referred to in the discussion below.

The effect of copper smelters was at once noted from the data presented in Figures 1 and 2. In particular, data from periods when the copper smelters were shut down due to state-wide copper strikes are enclosed in boxes in the figures. The most notable examples occur in 1967-1968 when the smelters were closed down for nine months, from Approximately July 16, 1967, to March 30, 1968. Figure 3 shows a detailed comparison of the monthly averages during this strike period to monthly averages during the same months of the preceding and following years. It can be seen that the incidence of haze is markedly lower during the period when the smelters were turned off.

Interesting correlative data comes from the Pima County Health Department, which monitors the "sulfation rate" at various locations in the county. The sulfation rate is a measure of sulfur oxides in the air and does not give detailed measurements of the  $SO_2$  relative to  $SO_3$  or  $H_2SO_4$ . However, the sulfur oxides are a diagnostic (in Arizona) indicator of smelter emissions. Figure 4 shows the sulfation rate measured in downtown Tucson during the same intervals shown in Figure 3. It can be seen that when the smelters were turned off the level of sulfur oxides in urban Tucson decreased markedly. Sulfation rates measured in other locations in the county show the same result except that, in general, sulfation rate is much higher as one approaches a smelter. Within a mile or two of the smelter, there is commonly a drop-off in the sulfation rate because

emittants from the stack do not immediately settle out but travel several miles before concentrating near the ground. In Ajo, for example, typical measures ran 1.5 to 4.0 mg/100 cm<sup>2</sup>/day, about 30 times the concentration in Tucson. These observations show that smelter pollutants do not penetrate into the Tucson basin.

On the other hand, concentrations of particulates in Tucson do *not* change markedly during copper strikes, as shown by unpublished measures of the Pima County Health Department. These observations suggest that sulfur oxides, through some mechanism, are involved in producing visible haze. Figure 5, a plot of sulfation rate versus haze incidence, shows supporting data for this statement. The sulfation rate data are based upon Pima County Health Department measures in downtown Tucson and are compared to Weather Bureau visibility data. A positive correlation is evident, and it is noted that low incidences of hazy days are not found if the content of sulfur oxides in the air is high.

The fact that haze during the 67/68 strike dropped to 1958 levels, suggests that in the late 50's Arizona copper smelting activities (averaging about 500,000 tons/year) were insufficient to affect visibility in the Tucson basin whereas by the late 60's (when smelt-

ing had reached about 700,000 tons/year) the affect was quite noticeable. This is supported by analysis of the U. S. Weather Bureau records during a briefer 1959 strike, when the frequency of "sub-50-mile hazy days" remained at about 9% level when the smelters were shut down, whereas during the 1967-68 strike, the frequency of "sub-50-mile days" dropped from 18% to 8%.

A similar analysis of Phoenix visibility data was performed by B. Herman and W. Sellers of the Institute of Atmospheric Physics, University of Arizona (private communication, also quoted in the *Arizona Daily Star*, April 5, 1970). Their figures for "sub-50-mile hazy days" in Phoenix showed a drop from 35% to 30% in the 1959 strike and from 25% to 16% during the 1967-68 strike, again confirming that clearing occurs when the smelters are shut down.

Visibility data are, of course, subjective and difficult to analyze with any assurance of precision. Nonetheless, the internal consistency of these data, the consistency of the trends in Phoenix, and the consistency with certain reports of outside observers, add considerable support to these particular data. Furthermore, detailed discussions with the Director of the Tucson office of the Weather Bureau indicated

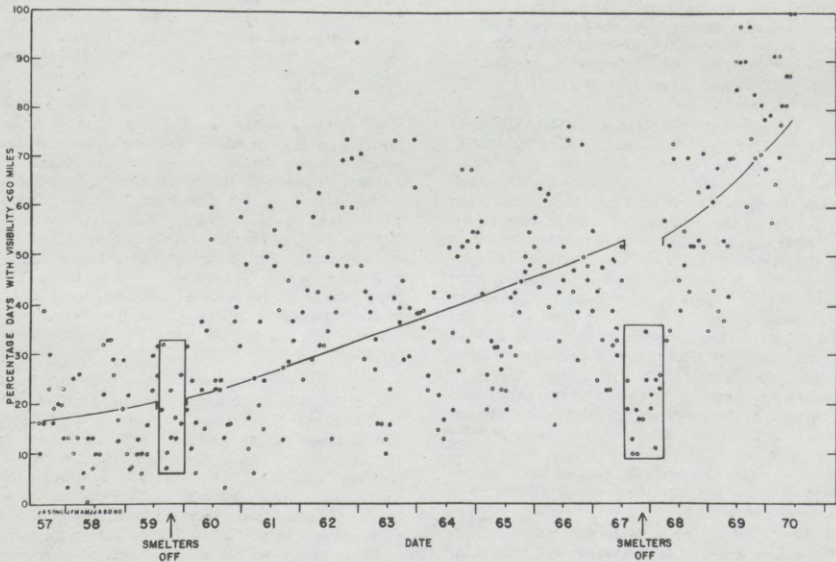


Figure 1.—Incidence of "sub-60-mile hazy days," 1957-1970. U.S. Weather Bureau records. Solid dots 8:00 a.m.; open dots 5:00 p.m. Boxes show copper strike periods.

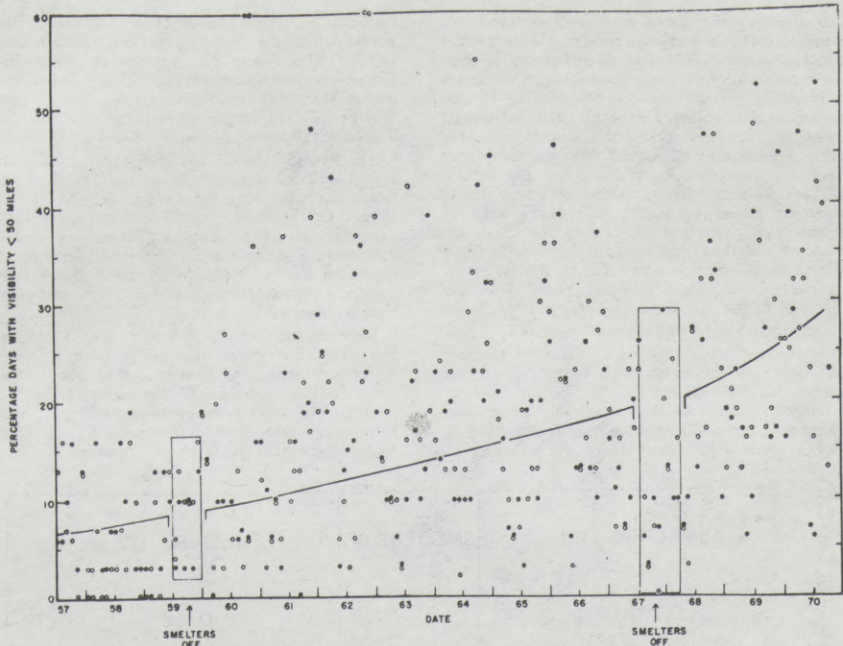


Figure 2.—Incidence of "sub-50-mile hazy days," 1957-70, plotted as in Figure 1.

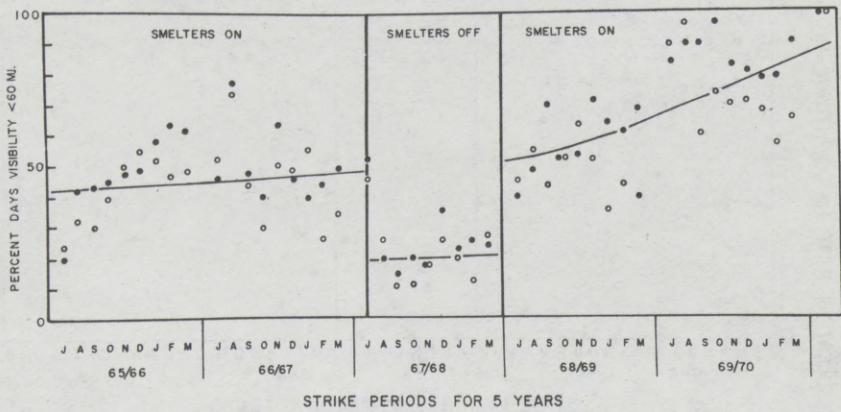


Figure 3.—Behavior of visibility during the July-March interval corresponding to the 1967-68 copper strike for 5 years. Percent of hazy days was significantly lower during the strike period.

that continuity of the staff, rotation of observers into different daily observation schedules, plus a general lack of discussions or preconceived interests in environmental problems and effects of copper strikes were all factors reducing bias and leading to confidence in data collected prior to 1970. Subsequent to 1970, there was considerable discussion in the press of environmental matters and controversy over Tucson visibility which could make simple analysis of Weather Bureau records rather uncertain. Therefore, the author resolved to undertake a series of standardized observations in a somewhat more detailed fashion than those recorded from the Weather Bureau in an effort to search for further diagnostic indicators in the haze distribution pattern. These are discussed in the next sections of this paper.

**OBSERVATION PROGRAM: 1970-1971.** — On October 15, 1970, a systematic observing program was begun by the author with visual estimates of visibility in miles made at various times of day from a hilltop on Sunset Road northwest of Tucson. Visibility estimates could be made toward mountains of known distance in several directions, including an

eastward line across urban Tucson, a line to the northeast across a sparsely populated valley toward Oracle, and a line to the northwest along the Casa Grande corridor toward Phoenix. These observations permit study of visibility across Tucson, whereas Weather Bureau measures minimize conditions in Tucson by averaging over other directions.

The morning observations from this post virtually always indicated clearer conditions north of the Catalina Mountains along the Canada del Oro Valley toward Oracle than across Tucson. However, the morning observations frequently show poor visibility toward Phoenix and Picacho Peak, perhaps because the line of sight passes along the heavily traveled Interstate Highway and near a cement plant close to Marana.

From March 29, 1971, through June 17, 1971, occasional observations were added from a second observing post on "A" Mountain, near urban downtown Tucson roughly nine miles south of the first position. This represented an effort to fill in a mid-morning time gap in the earlier measures. Comparable measures could be made in the eastward direction

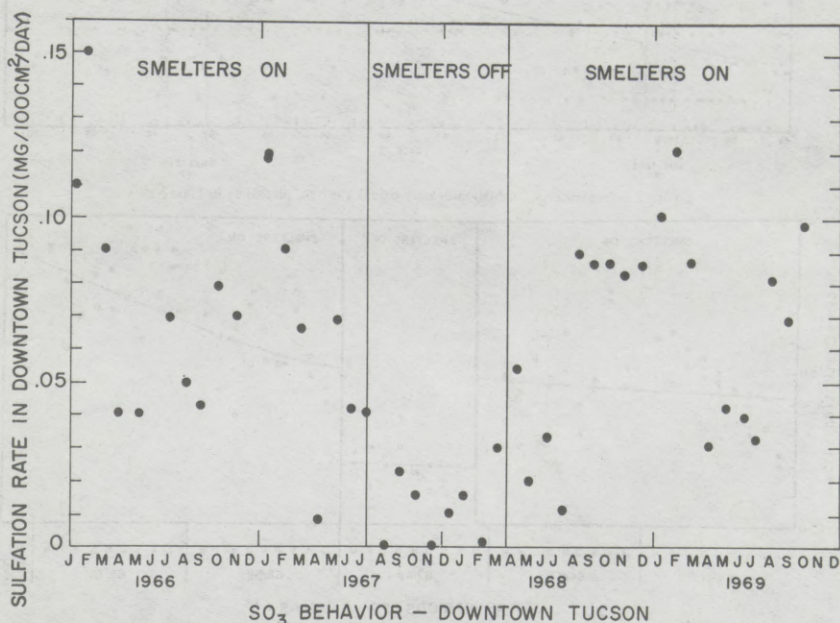


Figure 4.—Behavior of sulfur oxides concentration in Tucson (151 W. Congress St.) during 1967-68 copper strike. Pima County Health Department measures of sulfation rate.

across urban Tucson and these were analyzed together with the larger number of observations from the first post. Near-simultaneous checks from the two posts indicate that these two sets of measures are comparable for the purpose of estimating visibility across the city.

The measures are believed to have a high degree of consistency and objectivity, as they are virtually all made from pre-selected positions by one observer (sometimes with consultation of additional observers). Mountains of known distances yield objective measures of the maximum distance of visibility in each direction. The measures should be more diagnostic of urban visibility patterns than the Weather Bureau measures.

**DATA REDUCTION.**—Most of the observations were concentrated in the first half of the day—from about 6:00 A.M. through 2:00 P.M. This period was divided into half-hour intervals—6:15-6:44, 6:45-7:14, etc. Averages of all available observations of visibility were found for each half hour

of the day. In this way, diurnal variations in haze could be studied for the first half of the day.

During a preliminary analysis using the data gathered from October 15, 1970, through January 10, 1971, some indication was found that weekends and holidays averaged clearer than the work days, when rush-hour traffic apparently caused increased haze. That this was first detected *during* the program of observations refutes any suggestion that it might have been due to pre-conceived bias on the observer's part. The writer had not imagined this result at the beginning of the program. Therefore, all observations on weekends and holidays were sorted out and analyzed separately from observations on normal work days and during rush hours in order to test for rush-hour, automobile-associated pollution. Two problems could thus be studied: the detailed effect of the 1971 copper smelter strike, and the effects of automobile rush-hour traffic.

**ANALYSIS: EFFECT OF COPPER SMELTERS.**

—The detailed effect of copper smelter pollutants

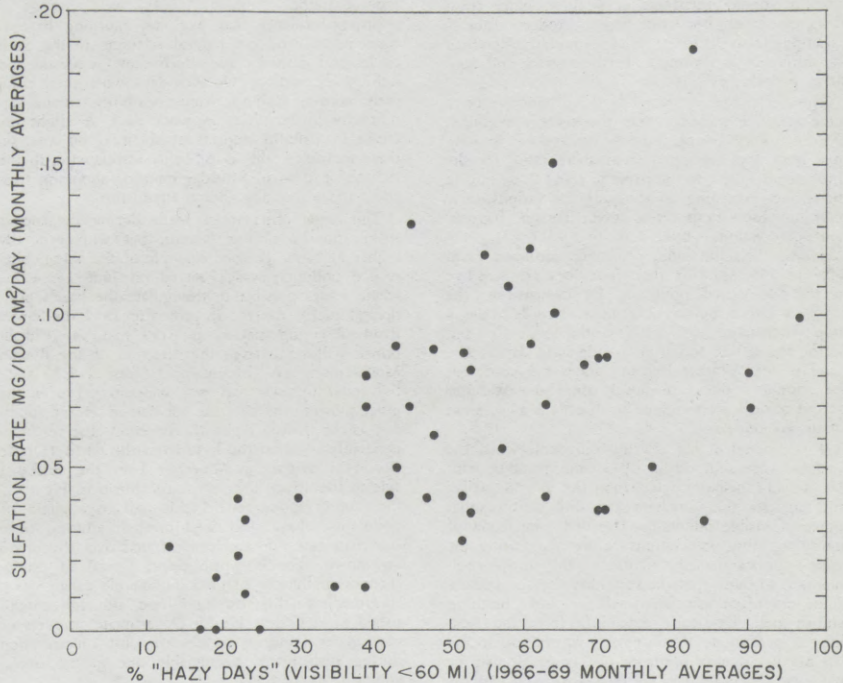


Figure 5.—Sulfation rate vs. incidence of "sub-60-mile hazy days," based on 8:00 a.m. Weather Bureau data.

is a subtle one not immediately shown by the kind of analysis presented in the section analyzing the Weather Bureau and Health Department records for 1957-1970. It was hoped that the 1971 copper strike would shed light on this problem. However, the 1971 strike was much briefer than the 1959 and 1967/68 shut-downs, running from July 4 to July 26, 1971 (San Manuel smelter). Hence, it was difficult to get data sufficient to rule out short-term weather effects, one of which was the unusually low humidity during much of the summer.

The first problem was whether the 1971 copper strike resulted in clearer air. Due to public interest in ecology, this question generated some press attention during the strike. For example, the National Weather Service was quoted in the *Tucson Daily Citizen*, July 22, 1971, with an affirmative answer, concluding that the first 19 days had a slightly higher visibility (51.6 miles) than the 19 days before the strike (49 miles) or the same period a year before (49.6 miles). Such a comparison is insubstantial, since day-to-day variations in weather, other emissions, etc. during non-strike periods produce visibility variations from 30 to 70 miles—much greater than the difference in the means between strike and non-strike periods.

The percentage of hazy days is found to be a more sensitive indicator than the average visibility. During the 1971 strike, the percentage of "sub-50-mile hazy days" dropped from about 60% for the three months prior to the strike to about 27% during the strike, according to the author's various early morning observations across urban Tucson. If rush-hour observations (8:00 A.M. to 10:00 A.M.) are excluded, then the same percentage dropped from 44% to 7%, showing that these data are sensitive to traffic-associated pollution. By comparison, the U. S. Weather Bureau 8:00 A.M. records show a drop from about 30% prior to the strike to 13% during the strike, for "sub-50-mile hazy days." The trend in the Weather Bureau data is the same, but the absolute values are lower, since the Weather Bureau records are weighted in directions away from urban Tucson.

It is concluded that clearing did occur when the smelters were shut off in 1971, and together with the longer-time-base data from the 67/68 strike, this suggests that smelters are still a substantial source of visible pollutants. Detailed comparison of hourly visibility observations before and during the strike suggests that the nature of the smelter pollutants is to cause sporadic very hazy days in Tucson. These are often associated with an early morning whitish pall, frequently extending from the Redding or Tanque Verde passes, which lead to the San Manuel smelter northeast of Tucson. It may be that these very hazy days are related to wind patterns or inversion layers which force smelter pollutants

into the Tucson basin or cause a buildup of sulfur oxides in southern Arizona. An alternate or contributing cause may be high humidity, favoring conversion of  $\text{SO}_2$  to  $\text{SO}_3$  with formation of  $\text{H}_2\text{SO}_4$ . Stephens and McCaldin (1971), for example, find  $\text{SO}_2$  half-lives of 70 and 144 min at relative humidities of 79 and 48%, respectively, but unmeasurably long at humidity 35%. Possible correlations of humidity, sulfur oxides, and visibility should be further studied.

**ANALYSIS: RUSH-HOUR POLLUTION.**—Observations of visibility are plotted as a function of time-of-day in Figure 6. The observations during weekdays (solid circles and solid curve) clearly show a decrease in visibility coinciding with morning rush-hour traffic beginning at about 7:30 A.M. This decreased visibility persists until late morning, about 11:00 A.M., by which time the auto-related haze apparently slowly dissipates. Such dissipation is related to the break-up of early morning inversion layers and the atmospheric mixing which occurs as the surface and air temperatures rise, as well as reduced traffic.

Strong evidence that work-day morning haze is traffic-related and not natural is found in the open circles and dashed curve which shows weekend and holiday observations. On such days, when there is no early morning rush-hour traffic, visibility remains significantly higher than on work days. A slight decrease in visibility appears at about 10:00 A.M. on these mornings; this is probably associated with the common pattern of Saturday morning shopping trips and Sunday morning church attendance.

The fewer observations made during the copper strike show a similar pattern, but with generally higher visibility. A good example of the automobile-related pollution was observed on June 15, 1971, when it was possible to triangulate the haze's position (Fig. 7). As seen in projection from the Sunset Road observing station at 8:30 A.M., a reddish-brown pall hung from the direction of the Rincon Mountains to "A" Mountain. As seen at 8:50 A.M., the reddish-brown pall was concentrated over the urban downtown, but did not extend as far southeast as the Benson highway. A second observer independently reported the haze from the north (Oracle Road) as ranging in projection from the near east side to the urban downtown. As shown in Figure 2, these observations restrict this pall to a cloud of pollutants along the well-traveled arteries from suburban east side and concentrated over the urban downtown. The brownish color, typical of photochemical pollution, suggests automobile exhaust as a contributor to this rush-hour haze, although unpublished Pima County Health Department measures of particulates show an increase in dust concentration during rush hours, presumably due to mechanical effects of motor traffic.

Hourly data on particulate concentrations in Tucson

in 1959 have been published by Mees, Klock, and Kangieser (1961, p. 13). Their data, gathered over a one-week period, are given for three-hour time intervals during the day. The "smoke" particle concentrations in the air in Tucson are found to be 1.3 and 1.2 units for the 6:00-9:00 A.M. and 9:00 A.M.-12:00 noon periods, corresponding to our morning rush-hour haze; but no other period of the 24-hour day has a value higher than 0.8 units. These data confirm the rush-hour surge in Tucson haze, observed visually in 1971. The same data do not show as clear a rush-hour surge in Phoenix, where higher background concentration were measured at all times of day.

It is concluded that a certain background level of visibility in Tucson—typically about 57 miles in 1971—is substantially but temporarily reduced by auto emissions during rush hours, and that smelter contributions are overwhelmed by automobile traffic-related contributions during rush hours.

A recent report by the Tucson Advisory Committee on Air Pollution shows that automotive sources of pollution, with planned controls and anticipated growth rates, will decrease by the late 1970's, but

increase again to present levels by 1995-2020 (Caldwell, *et al.*, 1971) unless further steps are taken in the areas of industrial emission standards set by law, technological designing of automobiles, mass transit, and general population growth.

**CONCLUSIONS.**—1. Smelter pollutants are responsible for a general degradation of visibility in the Tucson basin and surrounding areas. This is associated with an often-visible whitish mist which is frequently trapped by inversion layers and sometimes seen entering the Tucson basin through the Reddington and Tanque Verde Passes. The smelter pollutants are probably the most significant cause of visible smog if one averages effects over southern Arizona and over various times of day. Evidence for visibility improvement in Tucson and/or Phoenix has been found when copper smelters were on strike in 1959, 1967-68, and 1971.

2. Superimposed on the background of smelter-produced haze are diurnally varying local concentrations of brownish haze which is correlated with rush-hour traffic and which, during morning rush-hour in urban Tucson, exceeds the effects of smelter-produced haze.

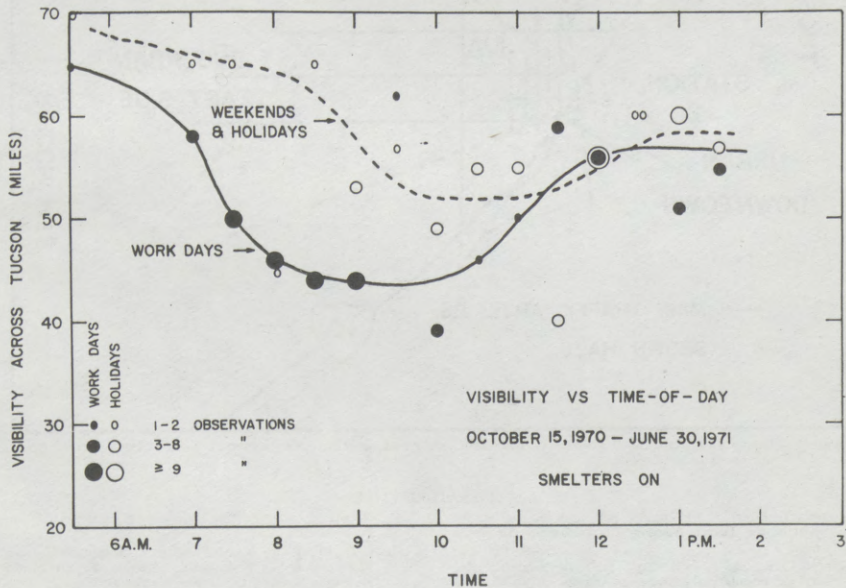


Figure 6.—Summary of visibility observations as a function of time of day. On work days (solid circles and line), a pronounced morning decline in visibility coincides with the morning rush-hour. On weekends and holidays (open circles and dashed line), such a decline is not as pronounced.

3. By virtue of the limited number of major sources, the natural boundaries of mountains, and repeatable weather patterns such as inversion layers, the Tucson basin forms an ideal "natural laboratory" for further study of artificial pollutants. Such studies may lead to better understanding of the complex conditions in larger urban areas.

ACKNOWLEDGMENTS.—I would like to thank Drs. B. Herman and W. Sellers of the Institute of

Atmospheric Physics, University of Arizona, and Drs. R. Caldwell and J. Bownds, who served as Chairmen of the Tucson Advisory Committee on Air Pollution, for valuable criticisms and information; Dr. R. McCaldin for supplying material on his study of  $SO_2$  conversion; and Dr. D. Davis for pointing out the early particulate data of Mees, Klock, and Kangieser. This work was supported by funding from IIT Research Institute.

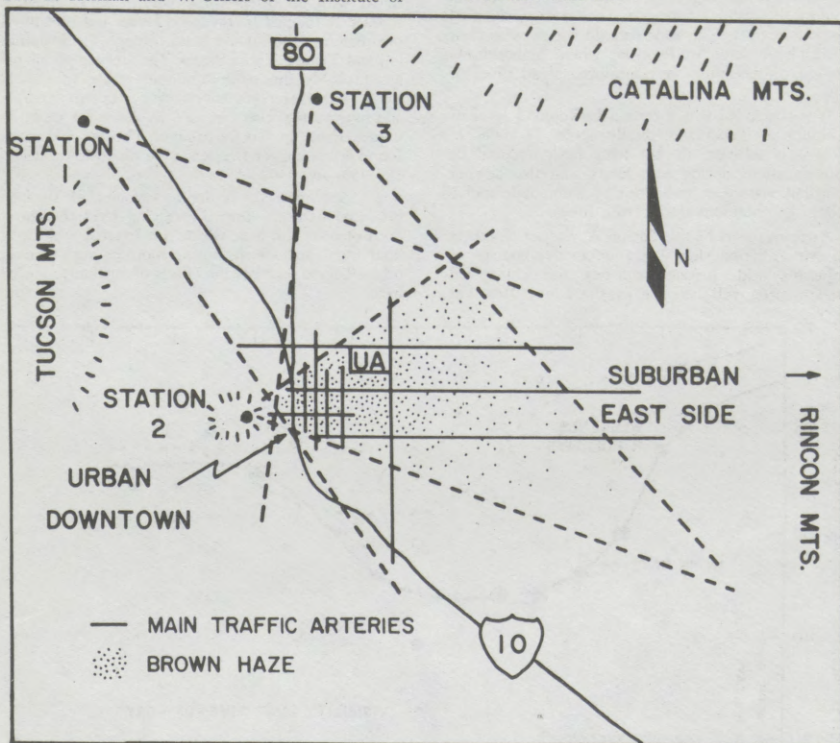


Figure 7.—Example of triangulated position of brownish haze cloud over the urban center of Tucson. Haze of this type is attributed to automobiles.

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Dr. KEPPLER. I don't want to take any more time. I will mention one or two other results, the strain on our suburban roads which are narrow, macadam affairs. With each new development they get more and more dangerous to drive on.

The strain on our drainage system; I have already talked about that, the strain on our already overstrained public utilities and the more impact on the public utilities, the more pollution into the air.

Perhaps most serious is the strain on our school system. Repeatedly representatives of our local school system have appeared at zoning hearings to point out the utter impossibility of the local school systems with their present facilities, taking care of the increasing population in outlying districts. We simply cannot do it. Many are already on double shifts. The answer has been and it was given at a recent hearing at the county board of supervisors, that the local government has no power in such matter unless given enabling legislation by the State legislature.

To the best of my knowledge, such legislation is not being passed. It is not being considered, even the consideration of it is not being considered.

All this while the juggernaut of growth goes on.

For this reason I think it is most important that we have the kind of bill Senator Fannin and other Senators are proposing of a national land use policy and encouragement of the State to formulate programs of their own that will be consistent with that policy.

We must begin at once a careful systematic central study of our problems and the dangers that confront us.

We must be encouraged to apply the results of such a study to our land use. To suppose such a study will be undertaken without Federal assistance, to suppose that the results of such a study will be acted on without really strong encouragement from the Federal Government is ridiculous on the basis of past experience.

Thank you very much for the opportunity of addressing you. We hope to see such a bill become law.

Senator FANNIN. Thank you, Dr. Keppler.

Do you feel that your organization, the homeowners, have not been able to get maximum input in zoning matters at the local level?

Dr. KEPPLER. I am not sure what you mean by input. Do you mean representation?

Senator FANNIN. That is right. Have you been able to present your case, have you been heard?

Dr. KEPPLER. We always have been given the opportunity to present our cases. Naturally the decisions have not always met with our full approval.

Senator FANNIN. I am just wondering, Professor, if you have any idea of how S. 268 would help you in that regard?

Dr. KEPPLER. I think it would help us by giving the local governments the opportunity to make the kind of systematic study of our problems that they need to make.

At present they are so under pressure that they can't take time to stop and make the study and act on it. That is why I feel we need Federal assistance.

Senator FANNIN. Well, I agree we do need the study at the local level. We have had extensive study of our public land laws. In fact, we had the Public Land Law Review Commission, of which I was a

member. Congressman Udall was also a member. We did study those laws. In fact, although I was not on the committee full time, the study covered a 5-year period at the University of Arizona—they were very helpful and many of the students in fact participated in the specialty studies of our problems in Arizona, which were a factor in the consideration of what was recommended.

We do have the recommendations of the Public Land Law Review Commission before us. I think the recommendation—we could say that the recommendation is for a balance of growth in land use decisions. To give you an idea of what we had involved, we had, I would say, a record that would fill this table of recommendations in which we were just to compile a limited number of final, conclusive recommendations. So it has been accomplished, but we still have the need for the local community to have their studies made and to have their recommendations considered.

DR. KEPPLER. Yes, I think so, Senator. You know a great deal more about this than I. I think there is also a great need for the coordination of the information at the disposal of the Federal Government and the information available to the various local governments.

Senator FANNIN. More than anything else, we hope that the final version of S. 268 will result in incentives for the cooperation and coordination of the Federal Government with the State, the State with the local communities, to accomplish the objectives you talked about.

Thank you very much.

DR. KEPPLER. Thank you.

Senator FANNIN. The next witness will be Kirby Lockhard, Tucson planning and zoning.

Professor Lockhard, I understand you are the Chairman of the Advisory Commission of this group.

#### **STATEMENT OF KIRBY LOCKHARD, TUCSON PLANNING AND ZONING**

Mr. LOCKHARD. Yes, sir. I am chairman of Tucson's Planning and Zoning Commission.

Senator Fannin, gentlemen, my name is Kirby Lockhard, 2901 East Mabel, Tucson.

I would like to say I appreciate your sponsorship of this legislation and your coming to Tucson to hold this hearing, and I personally appreciate the opportunity to speak before you.

The testimony I give does not represent an official position by Tucson's Planning and Zoning Commission, since our commission has not considered a position on this bill, although we are currently supporting Senate bill 1026 in the Arizona Legislature, which will allow the kind of State land use policy encouraged by the U.S. Senate Bill 268.

I would like to testify in support of Senate bill 268. It is difficult to think of Federal legislation which is more needed to help States such as ours, which are still relatively unspoiled, to avoid the unplanned exploitation of that part of our Nation's natural beauty which lies within our State boundaries.

Arizona is the Fort Knox of America's land reserves. Eighty-five percent of Arizona's land remains in public ownership, and that public ownership protects an irreplaceable natural ecology unique to this continent and to the world.

This land, like the water or the air, is a precious resource, and any premature, unplanned transfer of any of this land out of public ownership must be prohibited. The provisions of Senate bill 268 would help guarantee that this precious, unique resource is preserved.

Since World War II our State and this community have suffered a growth rate far beyond our ability to plan. The pressures on Tucson's Planning Department have kept us from doing much more than keeping after-the-fact records of our city as it has grown.

We are presently involved with Pima County, the town of South Tucson, and the Pima Association of Governments, in a comprehensive planning process aimed at broad citizen participation which will help determine the future form of Tucson.

This process would benefit greatly from the inventorying, data collection, and intergovernmental coordination contained in Senate bill 268.

We also need the Federal grants allowed by the bill to speed up our planning process, and the implementation of future plans for our city would also be protected and assured by the State land use policy which Senate bill 268 requires.

I would encourage you to make the bill stronger in two ways.

The first would be to withdraw Federal assistance for water-sewer, transportation and recreation development for States and cities which do not adopt land use programs within 5 years. It seems unreasonable to continue Federal support of unplanned growth.

Secondly, to help State and local governments to meet the 5-year deadline. I encourage you to raise the funding of States' grants from \$40 million to at least the \$100 million level contained in last year's committee-approved bill, and the Federal proportion of such grants from 66% percent to 90 percent.

I believe we need a national land use policy which will encourage and support our State and local governments in planning the most responsible use of our land. And in this State, and in this beautiful valley, we need it desperately.

Thank you.

Senator FANNIN. Thank you very much, Mr. Lockhard.

There are two bills we have under consideration at the present time. We have the bill that is recommended by the administration and the bill we have been referring to today.

Both bills provide for Federal funding at 66% percent for the first 2 years and 50 percent in the last 3 years. But S. 632 which we are talking about today, of course the new number is S. 268, and would have a Federal share of 90 percent, similar to the highway planning funds for the first 5 years and 66% thereafter.

That is the bill we are referring to in these hearings.

Mr. LOCKHARD. The copy that I got I thought said 66%. But if it is 90 percent the first 5 years—

Senator FANNIN. Of course, we do not have a finalized bill, but that is what is under consideration.

Mr. LOCKHARD. I see.

Senator FANNIN. S. 268 now excludes Federal and Indian lands, do you believe these lands should be brought into the bill?

Mr. LOCKHARD. Yes, I definitely believe so. Particularly in our State, we are surrounded by that kind of land. I think it should be included in the bill.

Senator FANNIN. Fine. I wholeheartedly agree with you. Would you place the same standard on those lands that the State and private lands have to adhere to?

Mr. LOCKHARD. Yes, sir.

Senator FANNIN. Well, thank you very much, Mr. Lockhard. I appreciate your testimony.

The next witness will be William Page, president of the Tucson Chamber of Commerce.

Mr. Page.

**STATEMENT OF WILLIAM PAGE, PRESIDENT, TUCSON CHAMBER OF COMMERCE**

Mr. PAGE. Good morning, Senator.

Senator FANNIN. Good morning. We are very pleased to have you with us this morning, Mr. Page.

Mr. PAGE. It is a pleasure to testify on behalf of the Tucson Chamber of Commerce regarding Senate bill 268.

I am William E. Page, president of the Tucson Chamber of Commerce. The provisions of Senate bill 268 now under consideration, as expressed in its declaration of policy, seem to be in the best interests of the people of the Nation, Arizona, and Tucson.

Life in our country cannot be allowed to deteriorate due to inadequate land use planning. The importance of a bill to support implementation of uniform land use planning on a nationwide scale cannot be understated.

Speaking for the Tucson Chamber of Commerce, I want to express our support for the concept but with reservations regarding the Federal Government's posture within the States' obvious areas of responsibility.

There are matters beyond the language of the bill itself which concern us. All of us are concerned with the problems associated with the expanding levels of Federal control.

We are supporting State efforts for the creation of an Arizona land use planning program but we fear the inevitable Federal preemption of State authority through the imposition of national standards which may not be applicable to local conditions.

In your address to the Senate in February of this year you noted the difficulties experienced by various concerns in dealing with the proliferation of Federal, State, and local agencies concerned with land use planning.

We are concerned that S. 268 may create only one more level of review to compound the problem. Our experience with the Environmental Protection Agency and the Occupational Safety and Health Act is that they were set up to improve the quality of our life in America but have placed an increasing burden of responsibility and cost on the businessman and the consumer.

We would hope that the implementation of the national land use policy can be structured so that the Federal office of land use policy administration can be charged with the responsibility of developing a comprehensive land use policy, complete with guidelines, for the Nation as a whole.

Following this development, this measure should permit adaptation by the individual States to fit their own unique conditions.

Once a State policy adaptation has been concluded, the ultimate responsibility for administration of land use planning should rest with the concerned local governmental entity with such modification as it deems appropriate.

In this way, we of the chamber feel that the best interest of sound environmental, economic, and social concerns can be served.

Thank you.

Senator FANNIN. Thank you very much, Mr. Page. I certainly agree with you and I said in my statement that the primary responsibility and authority for land use planning within a State is the prerogative of the State and Washington must not be allowed to usurp the one last remaining vestige of State police power. I must say that I do feel you have a position that is sound, the local communities do have the prerogatives and we should maintain that balance that is hoped to be in the bill in the final version.

This would certainly be damaging to us. As I said, the legislation must present a balanced approach to land use decision making and that is what we are talking about, decisionmaking.

We have had some recommendations and I would just like to read this one to you:

The Federal policy must be provided to encourage land use decisionmaking which provides a balance between competing values and requirements and which favors no particular mission, be it economic, social, or environmental.

One problem, to some environmentalists, means no use. That is a problem for us, because you know we want to protect the environment.

As a matter of fact, the previous speaker was saying we are the Fort Knox of American land reserves. I agree with him when you look at these beautiful Tucson foothills. When I say they are the most beautiful in the Nation, I might get in trouble in Phoenix, but I do think we have in Tucson and Phoenix the most beautiful foothills I ever viewed.

So I am vitally concerned about the protection of this beautiful area in the State of Arizona and, of course, all the States in the Nation.

So I appreciate very much your thoughts and your concern. We hope in the final version of the bill we will have this.

Thank you.

Mr. PAGE. Thank you.

Senator FANNIN. The next witness will be Mr. Robert Quihuis of the Nogales Chamber of Commerce. I may have slaughtered that pronunciation. Is the gentleman representing the Nogales Chamber of Commerce in the room?

[No response.]

If not, the next witness will be Mr. Al Lehtonen, vice president of the Horizon Land Corp.

We are getting ahead of our timing and perhaps the gentleman whose names have been called will appear later.

I think we will take a 5-minute break to see if these gentlemen do come in.

[Recess.]

Senator FANNIN. The hearings will be resumed.

We have Mr. Robert Quihuis of the Nogales Chamber of Commerce.

[No response.]

Senator FANNIN. Mr. Al Lehtonen, vice president of the Horizon Land Corp., is he here?

[No response.]

Senator FANNIN. Mr. Thomas Wilson, representing the Madera Canyon Improvement Association.

Mr. Wilson, we welcome you to the hearings.

**STATEMENT OF THOMAS E. WILSON, MADERA CANYON  
IMPROVEMENT ASSOCIATION**

Mr. WILSON. Thank you, Senator.

We are certainly pleased that the committee has made a decision to come to Arizona to hear what we here in the field have to say about this bill.

I am sure what we do have to say are things that you all heard before and you are probably going to get tired of hearing it but we do appreciate the opportunity to have you hear it again from us today.

I am here today on behalf of the Madera Canyon Improvement Association and the Santa Rita Improvement Association, which are associations of summer homeowner permittees in the Madera Canyon and Bog Springs areas of the Santa Rita Mountains. These areas are located within the Coronado National Forest.

The Madera Canyon area is a beautiful wooded site located approximately 38 miles south of Tucson. Seventy-five to eighty years ago there was mining and lumber activity in the area. These uses have long since been abandoned.

Beginning approximately 1918, the area was opened for summer home construction. Because of its higher altitude and cooler temperatures, the area has long been regarded as a haven for Pima County and Santa Cruz County residents who wish to escape the summer temperatures at the lower elevations. In more recent years, the area has become popular with residents living at greater distances including many from southern California.

There are now 54 summer home permittees and a number of private landowners living in the area. I know that I speak for a majority of these people when I say to you that they endorse, support and recommend passage of a National Land Use Planning Act.

As people who have had firsthand experience with the Forest Service and their interpretation of the Multiple-Use and Sustained Yield Act of 1960, we do have a number of firsthand comments on the proposed bill. We believe the major weakness in S. 268 is the lack of a congressional mandate requiring Federal public land agencies to zone or establish area wide land use plans. As written, the bill doesn't require national land use planning, but only State land use planning.

We recommend that all public land agencies should be required to formulate long range comprehensive land use plans for each State or region, relating such plans not only to internal agency programs but also to the State land use plan and the intended management programs of other agencies. Specific findings should be provided in their plans indicating how various factors were taken into account. Preparation of environmental impact statements in accordance with existing law should be required before the public agencies prepare such land use plans.

This Federal land use plan should recognize the highest and best use of particular areas of Federal land as dominant over other authorized uses but should include all compatible authorized uses.

Any national land use planning legislation which the Congress decides to enact should include requirements that all public land agencies hold public hearings similar to the ones proposed in S. 268 at which the general public and all special interest groups are invited to appear to give their views on the best use for those public lands.

Again, the public hearings and the environmental impact statements which are prepared should take into account the wishes, desires, and comments of persons already using the area and of those who wish to use the area.

When lands are set aside for primary uses. Congress should direct the agencies to manage them for secondary uses that are compatible with the primary purpose.

As an example of the bureaucratic misinterpretations that can occur in the absence of congressional direction, we cite the present controversy between the summer home permittees in the Madera Canyon area and the U.S. Forest Service. Although the Forest Service admits that it is bound by the Multiple Use and Sustained Yield Act of 1960, it has written its own guidelines setting its own priorities for uses within the area without preparing an environmental impact statement, properly consulting present users, expected users, State and local officials or accepting the congressional guidance expressed in the legislative history to the Multiple Use Act.

In December 1972, the Forest Service announced that no summer home permittees would be renewed beyond December of 1982. The announced reason for the termination is that, one: the 54 permittees pollute the area; and, two: the area is needed for an expected 180,000 day visitors who presumably will be pollution free.

The present value of summer home permittees in improvements in the Madera Canyon area is \$786,000. These are improvements which under the present ruling are required to be destroyed within 10 years. Many of the summer home permittees purchased their summer residences within the last 2 or 3 years, sometimes at a cost of more than \$25,000. To ask that these permittees amortize their investment within a 10-year period is to require them to absorb a severe economic loss.

In the State of Arizona, 69 percent of the land is owned by the Federal Government, either outright or in trust for the Indians.

Sixteen percent of the land is owned by the State of Arizona. Fifteen percent or less of all land area in the State is privately owned. Most of the privately owned land is in or near the cities of Phoenix and Tucson. That portion of it which is not in or near cities is primarily agricultural land or used as base land for Federal leasing. Less than 1 percent of that land is at altitudes or geographically suitable for summer home recreational uses.

Clearly, the only logical conclusion which can be drawn from these statistics is that summer home uses must occur on federally owned lands. We believe this to be a valid use of the Federal lands, at least in States which have high percentages of federally owned or controlled lands, much of which are national forests. We believe that the summer home uses are compatible with general public use and are in fact beneficial to general public use and to forest management. The number of forest fires which are spotted and reported, the number of

hikers, picnickers, and campers who are assisted, and the number of tons of refuse which are cleaned up at no expense to the Government are untold stories of the valuable assistance provided free by summer home permittees. This is, after all, a second home for them, and they have a vested interest in keeping it clean.

Again to specifics. The Coronado National Forest includes some 400,000 acres of forest land. Less than 300 acres, or approximately three-fourths of 1 percent of those lands, are used for summer homes. The balance of the lands are managed for general public outdoor recreation, fish, wildlife, and timber resources. We believe most strongly in a multiple-use concept of dominant and subordinate compatible uses and that special use and occupancy permits are compatible with other recreational and outdoor uses.

In conclusion, we urge the Congress to give strong consideration to the requirement that all Federal public land agencies zone the lands under their control for dominant and subordinate uses, that they do so in conjunction with one another and with State and local officials; that such zoning take place only after the preparation of detailed environmental impact statements which are to be made public and which are to be integrated into the administrative decision making process; that they do so only after holding public hearings which are well publicized and to which known interested parties are invited.

Thank you for this opportunity.

If there are any questions, I will be pleased to try to answer them. Senator FANNIN. Thank you very much, Mr. Wilson, for being with us today.

I understand your concern. We have so many Members of Congress that did not understand the problem because in their States they do not have Indian reservations, they do not have Federal lands to any great extent, so as you realize this is a very difficult situation.

You have heard some of the Members of Congress present themselves as to their feeling regarding the Federal lands. The feeling that the Federal lands belong to all the people and consequently the people of Arizona should not have any more to say about them than the people of Pennsylvania. Is this something that concerns you?

Mr. WILSON. Yes, it concerns me and you are right, it is an expression that I have heard from many Members of Congress.

Senator FANNIN. I do appreciate your being with us today and I also want you to know we have not finalized this bill. In fact, we have had information given to us yesterday and today that we will report back and that will have some influence on decisions that will be made.

Mr. WILSON. I read the newspaper account of Governor Williams' views on the cutting off of State grants until the States do prepare a State land use plan.

Speaking solely for myself, I believe that the State should prepare a statewide land use plan but I don't know how the Federal Government would react if Governor Williams announced that no one would pay their income tax until the Federal Government zoned the Federal lands.

Senator FANNIN. I understand. I think a lot of his statements were misunderstood in some respects. I think he took a firm stand that he does want the State to go forward in land use planning but he does not want the Federal Government to take over.

He felt that the people of the State of Arizona and especially the local communities should have a say in what is going to be done.

Mr. WILSON. I certainly agree with him and I think most people in Arizona do.

Senator FANNIN. Thank you so much.

Has Mr. Al Lehtonen arrived?

Mr. LEHTONEN. Yes.

#### STATEMENT OF AL LEHTONEN, HORIZON LAND CORP.

Mr. LEHTONEN. Senator Fannin, members of the committee, ladies and gentlemen. I am Alfred Lehtonen, vice president and general counsel of Horizon Corp. My statement of Horizon's philosophies and policies is both brief and to the point.

First, because I know you have many others who wish to express their viewpoints and concerns. And secondly because we so genuinely endorse the objective of your proposed bill.

Horizon is, as you know, a community development company. We feel that our corporate citizenship requires us to speak out today on this vital subject. We know that our intimate day-to-day experiences with land use problems qualifies us to do so. And we sincerely appreciate the opportunity you have provided us with this hearing in Tucson, our corporate headquarters.

A national land use policy is no longer a luxury for our country; it is an urgent, pressing necessity. The proposed bill to which these hearings are addressed, is in our opinion, a salutary, positive step toward meeting this high priority need.

This country is using up land at an ever-increasing rate. Acreage the size of the State of Rhode Island is consumed every 6 months.

It is not the use of the land—no matter whether it is parks, industry, or home sites—but rather the lack of cohesive, meaningful and purposeful policy and national decisions that is the danger.

In today's world, decisions to use land are often made with no forethought, with little consistency toward ultimate objectives, and, almost always, with no relationship from one decision or land use to the next, be it at local, county, State, regional or national level. The continued growth and health of the country cannot abide these horse-and-buggy concepts of land management and land use.

The very scarcity of our land resources mandates wise, judicious and coordinated land use practices, programs, and policies. Your bill is a recognition of these issues, which will so dramatically bear upon our future generations.

Yet, there are three specific points within the proposed bill that we believe need both broadening and strengthening.

These are in the areas of:

1. Multiplicity of governmental controls.
2. The structure of the National Advisory Board.
3. A better definition of developments and subdivisions to be included within the scope of the bill.

Let me very quickly give you our thoughts on each of these.

First, the matter of multiplicity of governmental controls.

To be effective, Horizon believes that a national land use policy must initially and directly streamline and modernize the often duplicative and many times cross-purpose laws, regulations, and controls that now—and can in the future—exist.

It is not the control, but the multiplicity of these controls that may well impede the development where it is wanted or prohibit it entirely where it is desirable.

For example, the development and land industry today is required to meet the comprehensive disclosure requirements of the Office of Interstate Land Sales Registration in the Housing and Urban Development Department. Various real estate offerings and accounting aspects are controlled by the Securities Exchange Commission. Our advertising is monitored by the Federal Trade Commission. The Federal Communications Commission presides over yet another area and even the Post Office Department supervises several aspects.

At yet another level, many States today have land use programs—and more are verging upon enactment of additional legislation in this field.

Consumer protection administrations of some States also require us to clear our materials with them. while no less than 39 States mandate that we must register, or in some other administrative process, submit our various materials to their inspection, supervision or regulation.

At still another level, most counties and communities in which we are doing business have specific land use and/or facilities and utilities controls that impact upon what can—or cannot—be achieved.

From the county or city health department to the county or city engineering department, there emanate regulations, rules and ordinances directing, stifling or curbing various activities—nearly all enacted with public benefit in mind, of course, but often remaining on the books long beyond their useful life—and in cross-purposes to modern needs.

This maze of bureaucratic and governmental redtape, if not placed into perspective within a national land use policy will, in the long term, subvert that policy and our land use needs.

Again it is not the control, but the multiplicity of the control that is alarming.

It is not the State Subdivision Act, but it is the State Subdivision Act augmented by the State Environmental Act, augmented by the State Water Management Act, augmented by the State Taxation and Appropriations Act, augmented by the State Securities Act, augmented by the State Water Quality Act, and on and on interminably which stops sound land use planning.

This multilevel legislative smog is a planning pollutant—and like all pollutants, it should be eliminated. Both laws and agencies must come under scrutiny and only those still viable and necessary to land use implementation should remain—but then only in a centralized forum to avoid the whip-sawing technique employed by many administrative agencies today.

Second, the structure of the National Advisory Board. In the proposed bill, there is proposed a National Advisory Board on Land Use policy. The Secretary of Interior is directed to establish the Board with members including the Secretary and representatives of the Departments of Agriculture, Commerce, Defense, Health, Education, and Welfare, Housing and Urban Development, Transportation, the Atomic Energy Commission, and the Environmental Protection Agency.

Also observers from the Council on Environmental Quality, the Federal Power Commission, and such other representatives of other Federal agencies as the Secretary may request.

It is our belief that there are two very important representations missing from this Board concept.

Under the long-term emphasis of the proposed land use policy, the States are to become the focal point of planning activity. It is as it should be. The State level is, by all measures, the effective and directly concerned governmental unit.

But their advisory representation and their opinions, concepts, ideas and needs are not directly present upon this National Advisory Board. We think State representation should be included.

Similarly, we believe that the industry perspective should be included in the membership and structure of the Board. There is need, we strongly feel, for the realworld, day-to-day practicalities and problems of development to have recognition and participation.

If this Board is to function for, of and by the people, then those who are most vitally affected by its decisions should have a voice in the decisionmaking process.

Our third point of interest is the better definition of development and subdivisions to be included within the scope of the bill.

The proposed bill would include only large scale developments. And the bill defines large scale development as including new communities and large scale subdivisions on non-Federal lands.

But nowhere is that term new communities or large scale subdivision further defined.

Horizon believes that these terms should be precisely and clearly defined to include the urban, suburban, or rural subdivision developments of, say, 50 or more, even a small figure should you desire, lots.

This loophole must be closed. Why? It is the aggregate of these developments that is creating what is commonly called today the urban sprawl.

The effect of these developments and the magnitude with which they spring up is adversely affecting the environment surrounding our major cities, towns, and villages. They contribute materially to our mass transit problems, the inadequacy of our highways and thoroughfares, the out-migration from inner cities, the power problems, the educational system problems and many, many other urban difficulties.

Unless the term community development is defined to include the developer utilizing the land resources within and immediately surrounding our cities and towns, we will continue to have patchwork, piecemeal, helterskelter development in those areas.

Without effective overall planning for schools, parks, greenbelts, arterial ways, coordinated utilities and drainage ways—to name just a few—in urban areas, we will have made no progress.

The development of these urban, suburban, and rural land resources must be brought within the ambit of community development so that the land use controls envisioned in this national land use policy legislation will be effective in stemming the tide of the sprawl now choking our cities, towns, and villages.

These three points, gentlemen, we believe to be worthy of your direct consideration. We believe that eliminating the multiplicity of controls, the broadening of the Advisory Board and the inclusion of land resources in, around, and adjacent to our towns, cities, and villages are imperative to a successful national land use policy.

Let me quickly add that the land and community development industry has in recent months been besieged from many points. I will not take the time here today to refute or rebut many of these allegations.

But there is one that we often hear to the effect that we are sacrificing the land and serving no useful national purpose. I want to read you a few lines from a document to demolish that assertion:

The company's primary functions are the acquisition of land for the project, the development of land for sale to purchasers who will construct improvements thereon and the construction of public facilities for the project \* \* \*

The project is to be developed over a 20-year period in accordance with an approved comprehensive plan. The plan covers approximately 8,000 acres of land, including property presently owned by the company and properties presently owned by others which the company expects to acquire.

It is contemplated that 110,000 persons will eventually reside within the project. Housing is to be provided for persons of various income levels and, as presently planned, will consist of completion of 11,000 detached single-family units and 27,000 multi-family units.

To date, almost 500 single family units have been built and sold within the project, and 500 multi-family units are presently under construction. Bicycle paths and walkways, separated from auto traffic, will join the various residential areas and commercial facilities.

To provide an economic base for the project, approximately 1,000 acres have been set aside for development as Governors Gateway Park. Utilities are presently being extended to this area.

The development plan provides for commercial, municipal, and other services to be constructed using a linear town center concept, under which easy access would be provided by means or a mass transit system.

The use of a linear town plan will permit growth in logical stages in which each segment can be added without disrupting the activity of the existing segments.

A comprehensive community health program is being planned, which will include community health centers, a general hospital and a system of prepaid health insurance.

I end the quote.

Do most of you think this is from an ad or property report of a land developer? No, it is not. It is from the offering circular of the Park Forest South Development Co. offering \$30 million of new community debentures guaranteed by the U.S. Government under the title 7 HUD program.

The point is that private land and community development companies share a common interest with the Government in creating new communities—and we are doing it with private capital.

We believe our interests coincide with a national land use policy, too, and that such a policy should recognize and encourage our activities.

Thank you.

Senator FANNIN. Thank you, Mr. Lehtonen.

We are concerned about the multiplicity of controls. We want better controls but I agree we should consolidate administration without power going to Washington. We have concern, too, about some of the definitions.

I think large scale subdivisions and new communities should be defined. We will make that recommendation.

You have talked about the input from the local communities and the State to be sure that the Federal Government does not preempt and, of course, industry should be included on the advisory board, but not to where there is control by any one segment.

A balanced representation without preempting the local and State considerations, I think, is desirable.

We do have changes that have been made in the recommendations on the bill. I would just like to have your thoughts.

The bill that we have, the committee print of March 28 that you have not probably had a chance to look over.

Mr. LEHTONEN. I was reading S. 924, Senator.

Senator FANNIN. Yes, that is the administration bill. S. 268, the committee print now says to establish a national land use policy to authorize the Secretary of the Interior, pursuant to guidelines established by the Executive Office of the President.

Previously it provided for the establishment of an Office of Land Use Policy and Administration in the Department of the Interior.

Mr. LEHTONEN. Yes.

Senator FANNIN. Would you want to comment as to which you would prefer?

Mr. LEHTONEN. I presume the Office of the Land Use policy there would report to the National Advisory Board and would be reflective of the policy decisions as promulgated by the Board.

Senator FANNIN. Well, it would encourage research and training as well as land use planning and management. There would be guidelines established by the Executive Office of the President.

Mr. LEHTONEN. Based on that, it would appear to me the Office would be better equipped to formulate the guidelines passed onto the States and worked out in cooperation with the States.

Senator FANNIN. Since you do develop lands that I imagine are adjacent to Indian lands, would you comment on the inclusion of Indian lands in this legislation?

Mr. LEHTONEN. We have had no experience with regard to Indian lands. None of our lands are adjacent to Indian lands and I have no experience in that regard.

Senator FANNIN. Well, you do have lands adjacent to Federal lands. Do you feel that should be included?

Mr. LEHTONEN. Yes. I feel the overall land management, regardless of the ownership, should come under an overall planning and implementation process.

Senator FANNIN. The Indian lands do checkerboard our State to a great extent and I thought perhaps your developments were adjacent to Indian land.

Mr. LEHTONEN. No.

Senator FANNIN. Do you have a copy of S. 268?

Mr. LEHTONEN. Yes; I do.

Senator FANNIN. Fine. Thank you very much for your testimony. I appreciate your being with us.

Mr. LEHTONEN. Thank you for the opportunity, sir.

Senator FANNIN. We will pause for a short minute.

[Brief pause.]

Senator FANNIN. At this time I would like to introduce a statement that was to be read by Senator Haskell regarding Congressman Udall's report to this committee.

Unfortunately, he could not be with us today because he is holding land use policy legislation hearings in Washington.

This is worthy of special attention.

For several years, he has led the effort in the House to gain passage of the legislation which is the subject of our hearing today.

He served with Senator Fannin on the Public Land Law Review Commission whose difficult and sometimes tedious work created the backdrop for congressional action on responsible, informed land use reforms. He is known as one of the premier legislators in the Congress.

The position Congressman Udall ultimately takes on this legislation will cast a long shadow in the Congress. Thus at the outset I am inserting into the hearing record the statement he issued only last week as hearings on national land use legislation commenced in the House of Representatives.

I have a limited number of copies which are available to the press and public.

The next witness will be Dr. Richard Kassander of the University of Arizona.

Dr. Kassander, we welcome you here today and I express to you my personal appreciation for the contribution you have made over the years to legislation vital to the State and to the Nation.

I appreciate your being here today.

**STATEMENT OF DR. A. RICHARD KASSANDER, JR., VICE PRESIDENT  
FOR RESEARCH, UNIVERSITY OF ARIZONA**

Dr. KASSANDER. Thank you very much, Senator Fannin.

Mr. Chairman and gentlemen of the committee, I am Dr. A. Richard Kassander, Jr., vice president for research of the University of Arizona. I have been director of the university's institute of atmospheric physics, its water resources research center and head of its department of atmospheric sciences. Until recently, I was a member of President Nixon's Science Advisory Committee Panel on the Environment. I believe I have had as broad a contact with the whole matter of environmental quality preservation and enhancement as anyone in this area. I thoroughly endorse and support S. 268 and commend your foresight and courage to prepare the bill which will have many opponents inside and outside of the Government. This bill has many more far-reaching implications than a first glance will suggest to the environment's ordinary proponents of "apple pie and motherhood."

Neither time nor wisdom gives one the opportunity to comment, even superficially, on a large number of elements of the bill. I would, therefore, confine my remarks to a few generalities and a few specifics and hope that, in the aggregate, testimony will cover the whole bill to the extent necessary to assure its passage.

A major fraction of Arizona is owned by the Federal Government. Much of its choicest forests, watersheds, and natural wonders are in this category. There are enormous acreages of Indian lands. It is therefore indispensable we have some guidelines, recognizing the needs of all parties, for our future land development. We now see huge areas of our lands cut up and subdivided with little regard to the future, on the assumption that there is plenty of this worthless land. In addition to the fact that scars on desert lands don't heal, because of the lack of water and vegetation, to view these lands as worthless is shortsighted. We should not forget, for example, that Arizona's sunshine, perhaps its most valuable resource for future power and food, can be gathered on these expanses, hopefully with structures

which can enhance the land in other ways, such as providing shade for cattle feeding areas. Technology assessment is an important ingredient of land use planning. I haven't found that term in my reading of the bill and hope it might be added because technology will dominate so much of our future planning and illuminate our planning failures.

I have an example I would like to mention. Developers are busily ripping up the desert west of Tucson for trailer parks and other land developments. A very few miles away, the copper mines are producing spectacular holes and artificial mesas strangely reminiscent of the land forms produced by real estate developers in the San Diego and Los Angeles areas. These rock piles will render forever doomed whole sections of land which we are trying to camouflage by landscaping. At the same time we have the mines, city of Tucson and local farmers in conflict over groundwater. In my view, as an amateur land-use planner I could imagine the desert being spared to the west while the tremendous earthmoving effort of the copper mines could provide revenue-producing home and trailer sites. We could also have lakes fed by artificial catchments with a general enhancement of the landscape by concentrating our efforts, rather than dissipating them to produce eyesores and irreversible land ruin. I believe S. 268 provides the requirements and the incentive to this kind of planning.

I am especially glad to see Sec. 10(g) of title I recognizing the significant impact of Federal decisions on statewide and local environments and patterns of development and the need for the State and local participation in the Federal planning process. I particularly approve the reaffirmation of this policy in title III, especially 302(b), 304(f), 306 (a) and (b) and the compelling obligation of title VI, section 401(a) for "All agencies of the Federal Government charged with responsibility for the management of Federal lands shall consider State land use programs prepared pursuant to this act and State, local government, and private needs and requirements as related to the Federal lands, and shall coordinate the land use inventory, planning and management activities on or for Federal lands with State and local land use inventory, planning, and management activities on or for adjacent non-Federal lands to the extent such coordination is practicable and not inconsistent with paramount national policies, programs, and interests." This should provide particular stimulation to and interest in the preparation of State land use plans.

Although I would like to see a stronger and more explicit statement, I draw some hope from section 203(d), (2) and (3) which requires the board representative to "assist in the coordination and preparation within his agency of comments on (i) guidelines, rules, and regulations proposed for promulgation pursuant to section 502, and (ii) statewide land use planning processes and State land use programs reviewed pursuant to title III of this act;" and "assist in the dissemination of land use planning and policy information and in the implementation within his agency of policies and procedures developed pursuant to this act." I believe the most frustrating possible experience for a person with high hopes for Federal help is the buffeting from bureau to bureau one gets within an agency such as the Department of Interior, to whom this bill assigns leadership. I am sure Senator Fannin, who has been of indispensable assistance to programs of the University of Arizona, particularly related to the Indians, will recall our exercise

in the Department of the Interior when we hoped to build a demonstration program here in Tucson on how powerplant waste water could be utilized on otherwise unproductive lands to produce food, recreation opportunities, and general environmental quality improvement for a disadvantaged segment of our local population. Secretary Hickel visited our pilot project here and afforded Senator Fannin and me an opportunity to make a presentation, complete with slides, in the Secretary's office in Washington. The Secretary essentially gave orders that our proposal be implemented. I then proceeded to the Bureau of Land Management, Bureau of Indian Affairs, Bureau of Reclamation, Bureau of Outdoor Recreation, Bureau of Sports Fisheries, to name a few. Everyone agreed our program was great but no two could get even close together on the Secretary's order for implementation. The only thing which saved me from becoming a completely deflated football was that Secretary Hickel wrote a letter and returned to Alaska with our dream still in his pocket. The power of this bill might encourage some coordination in the executive branch.

I very much appreciate the opportunity to testify on behalf of this important bill and hope that it will have as important an impact on our thinking and planning as did the National Environmental Policy Act of 1969, in which so many of its sponsors also participated.

Thank you very much.

Senator FANNIN. Thank you very much, Dr. Kassander. You have contributed so much over the past years. We discussed some of the programs and projects that you recommended and it seems you are a few years ahead of your time. Now we are getting around to what you were recommending in those years.

Your expertise in the field of new technology is certainly well known to all of us and I am certain the other members of the committee as I do appreciate very much your recommendations and they will be carefully considered.

I appreciate very much your being here today, sir. I appreciate your good support.

Thank you.

John McComb of the Sierra Club.

#### **STATEMENT OF JOHN McCOMB, SOUTHWEST REPRESENTATIVE, SIERRA CLUB**

Mr. Chairman, members of the committee; I am John A. McComb, southwest representative of the Sierra Club. Since other representatives of the Sierra Club have appeared before you at hearings in Washington, D.C., earlier this year on this same legislation, I will try to give some perspective on the subject as viewed from the Southwest. My territory as southwest representative includes three States; Arizona, Utah, and Colorado; which grew nearly 20 percent or more in the past decade. This growth, so often destructive of the very values which attracted many of us here and which makes the region a mecca for tourists from across the country—it is the haphazard nature of this growth and its associated problems which creates a strong desire in me and many others throughout the Southwest to seek the strongest possible Federal land use planning legislation.

No one should doubt the need for a national land use policy and strong legislation of Federal, State, and local levels to implement it.

Too many of us have trouble forgetting that the frontier era of abundant land for anyone and any potential use is long past. We now have to cope with the problem of allocating our scarce land resource among the many increasing and frequently conflicting demands made upon it. Demands for open space, for urban growth, for parks and recreation, for industrial sites, and for wildlife habitat. We must learn to live with this reality and the many restrictions it will inevitably place on some of the freedom to do just as we please that the first settlers in this region enjoyed.

I am particularly concerned that this proposed legislation does not retain for the Federal Government a sufficiently strong role in the preservation of those areas identified as being of critical environmental concern. Why should the Federal Government continue to assume a major responsibility in protecting the environment? First, the benefits of providing this protection frequently accrue to persons living in other parts of the country. It is unreasonable to expect local or State government bodies to be responsive to the needs of persons who are not part of their constituency. Just as the benefits accrue to persons across the Nation, so should the costs be equitably born by the beneficiaries.

The most important beneficiary of our good custodianship of our land are the future generations who will be dependent on inheriting a viable, healthy land resource. It is this important long range perspective which we have notoriously been unable to cope with particularly on the local and State levels.

This is not intended to be a condemnation of those local officials who are now responsible for land use decisions. I know many of them, they are very capable and are indeed trying to do their best. However, it is too much to expect them to do a good job in the absence of statutory authority and guidelines. The pressures are too great, and the opportunities for reversal on appeal are manifold. If the planning commission turns the developers down, then just appeal the decision to the county board of supervisors. If they are reluctant, then threaten a suit challenging their authority. If all that fails, then start over again with a slightly different but equally destructive plan. In the process those responsible local officials and the public who desire to do the best thing are worn down by the larger resources of potential developers seeking short term-financial gain.

We do not dispute the desirability of giving to State and local agencies the bulk of the responsibility for land planning decisions. They have the intimate knowledge of the situation and they are in better contact with the persons most directly affected. However, we must set some strict limits to this delegation of authority, particularly in the area of environmental protection.

Good data and ample financing will not insure a good land use plan. We could plan for orderly destruction, something I worry about a great deal in the Southwest. Witness the "plans" which speculative subdividers trot out—neatly bound, illustrated with multihued maps and enticing drawings, accomplished by elaborate reports, yet we know in our hearts that implementation of that plan will result in the inevitable destruction of values which we hold in high esteem.

Two specific examples with which local residents are familiar are the plans of GAC to develop a large new city on the rolling grasslands near Sonoita southeast of Tucson, and the more recent proposal for a

subdivision accommodating some 17,000 persons in an unusually scenic location north of Tucson. Implementation of these plans will result in the loss of critical wildlife habitat, degradation of outstanding vistas, and further depletion of Arizona's ground water resources, just to cite a few problems.

No doubt these speculative subdividers will be able to find willing buyers for their property through the use of high-pressure merchandizing techniques. No doubt, also, that some of these developments could even be very pleasant places to live. It is also true, however, that we do not need any additional such subdivisions in the Southwest whether for first or second homes. Even if you accept the most optimistic or outrageous projections of population growth, depending on your point of view, there is enough land already zoned for intensive development in the Southwest to accommodate all the additional population growth anticipated during the rest of this century.

New speculative subdivisions will only compound the problem of preparing truly adequate land use plans. If we allow this trend to continue it will be very difficult if not impossible to put the land resource back together in order to do a rational job of planning. In the Southwest, a moratorium on such subdivisions would certainly be in order. Perhaps that is not consistent with conditions in other parts of the country, but Congress should at least require a permit system for any new, large, urban developments. Criteria to be met before a permit could be granted should include a demonstration of need for the development, provisions for adequate facilities so that the development would not become a burden on existing communities, and a showing that the development will not damage or destroy significant environmental values. Without such a moratorium or permit system, the really crucial planning in the Southwest will be done by default. State and local agencies will be stuck with trying to cope with the mess that is resulting.

Before closing I would like to comment on the other aspects of S. 268 which deal with "areas of critical environmental concern." I feel that these sections are particularly important and would like to suggest two general areas of improvement. First more adequate guidelines should be set out as to what types of uses are permitted in such areas. Equally important is that better provisions must be made for the public to have substantial input into what areas are identified as being of critical environmental concern. I know that specific language to accomplish these ends has been suggested by the Sierra Club and many others in Washington and I urge the committee to respond favorably to these suggestions.

I wish to thank you for coming to Arizona so that local residents and public officials could present their views on this important legislation.

Senator FANNIN. Thank you, Mr. McComb, we very much appreciate hearing from you today. Your recommendations will be considered.

Thank you.

Mr. McCOMB. Thank you.

Senator FANNIN. Mr. Roy Drachman.

## STATEMENT OF ROY P. DRACHMAN, URBAN LAND INSTITUTE

Mr. DRACHMAN. Good morning.

Senator FANNIN. I notice you are listed under the Urban Land Institute and the Tucson Regional Plan, Inc.

Mr. DRACHMAN. All right. First, I would like to make a statement for the Urban Land Institute.

Senator FANNIN. Both statements will be made a part of the record and with your national image I am sure will be given every consideration.

Mr. DRACHMAN. Thank you.

By even the most conservative estimates—zero population growth—our Nation's population will reach 313 million by 2035.

The additional 100 million people must live somewhere and must be provided with homes, employment facilities, educational, health, and recreational facilities. They must be fed and clothed and they must have energy and transportation.

The land is used to provide these things. Our land is our most important physical resource. It is limited and will not be increased in size since we are not a conquering people.

Our land is being wasted and being used unwisely in many instances. As a result, some would not have us use any more of it except to gaze or graze upon it.

There is sufficient land to provide a place for each of the 313 million Americans who will eventually live on it and to also provide the necessities of life if we use some commonsense and plan for our long-range needs.

The current fadism prevalent in numerous places to stop inflow of population will only lead to hardships for other communities and for millions of U.S. citizens who still have the right to move about and settle where they wish.

Oregon's Governor McCall now acknowledges that their no-growth policy is a complete failure. In 1971 and 1972, 90,000 people moved to Oregon—that's 125 persons every day. He now is urging his Oregon communities to recognize that growth is inevitable and that instead of fighting growth, they had better plan for it.

However, in every city there are many people who would prefer the status quo posture. They've got it made—they like things the way they are and fight like hell any attempts to bring changes.

On the other hand, there are millions of Americans who are "have-nots"—they do not "have it made"—they have not yet achieved the full life promised them.

They are still short changed, live in inadequate housing located in ghettos or in little country towns where economic, educational, and even health facilities are limited and below the national average.

These people, many of whom are members of the minority, but also many who are not of the racial minorities but who are deprived citizens, are entitled to have hopes and aspirations and expanded horizons.

They are entitled to raise their standard of living and to eventually become members of those who have it made. They can do this only by having better job opportunities, by having better educational opportunities.

The no-growth attitudes will deprive them of the opportunities to improve their quality of life and will condemn the minorities and have-nots to continued deprivation.

Only on a national basis can we properly address ourselves to the problem of providing for the growth that is certain to come. Only by national directives and laws can those who would thwart growth and proper land use in their communities be convinced that they must prepare for a share of the growth of people and facilities.

Only by national direction can the have-nots be assured of a "piece of the action" and a meaningful improvement in the quality of their life.

To accomplish these things, our Nation needs a national land use policy inculcated in a National Land Use Act.

I have read Senate bill 268 and I believe it will serve as a vehicle to launch better planning for, and use of, our Nation's land.

I believe, that most of our States will enact the laws and regulations necessary to participate in the national land planning program.

However, a considerable number may delay or refuse to take action necessary to comply with the national program.

In the bill passed in the last session of the Senate pertaining to the national land use program, there were measures which penalized those States which did not participate in this program. I regret that they have been eliminated from Senate bill 268 as I believe some incentives will be necessary to bring about early adoption of land use plans by some States.

I would like to express a matter of serious concern relating to development of a national land planning policy. It should be recognized at all levels of government that no master land use plan will be perfect and that each such plan must be a living thing subject to constantly changing conditions.

The individual State master plans must not be etched in stone, but be flexible and able to evolve to meet the current needs of our increasing and mobile population.

Provisions for such necessary changes are implied, but I would respectfully suggest that they should be more clearly recognized and spelled out in the final draft of the bill.

I wish to thank you for permitting me to present these comments on behalf of the Urban Land Institute. I would like to add that the Urban Land Institute is a national real estate research organization based in Washington, D.C., having 5,400 members throughout the Nation and in other foreign lands.

Mr. DRACHMAN. Now, I would like to present a statement on behalf of the Tucson Regional Plan of which I happen to be president.

Senator FANNIN. Very well, you may proceed.

#### **STATEMENT OF ROY DRACHMAN, PRESIDENT, TUCSON REGIONAL PLAN, INC.**

I appreciate the opportunity to appear before this committee to present these comments on behalf of the Tucson Regional Plan, Inc., an organization of citizens interested in improving the quality of life in this area through the proper planning and use of our land.

When I was born here in the early part of this century, Tucson had less than 10,000 people. Today it has over 410,000 people.

It is growing at the rate of about 30,000 a year or approximately 8 percent. This growth has created problems as one would expect in any rapidly expanding community.

However, the problems here are far beyond what they should be largely because of inadequate planning. I refer to inadequate land planning, inadequate planning for services such as sewers, and inadequate planning for transportation.

This community does not have a master land use plan. We have had ones in the past, but they long ago were outgrown and cast aside. I might add that the first master plan prepared for Tucson was sponsored and paid for by the Tucson Regional Plan, Inc., back in the late 1930's.

As a result of not having a master plan for the past few years Tucson is growing in a manner that almost defies belief. Subdivision is added to subdivision to subdivision without regard to the effect on the neighborhood or the community as a whole.

Homebuilders are directing the march of homes across our desert areas as far as the eye can see.

They are blamed for the spread of urban sprawl and there is no doubt but that is what is being created. Many developers are good citizens and are trying to do the best they can under the present circumstances. They are building homes and apartments for those families who live here or are moving into this area. They are performing a needed service.

Other development companies operating in this general area, most of which sell vacant land and lots by regional or national advertising and sales programs, are not doing this community a favor nor are they providing a needed service. This type of developer is giving the development industry a black eye and is causing the public to believe all development should be halted.

The result is great confusion. The local officials are confused. They don't really know whether they should follow the advice of their professional planning staffs or listen to the vociferous pleas of the confused citizens who are scared to death to allow any further development.

This ridiculous situation would not exist if proper advance planning had been done for the growth that we are now experiencing. Our planning departments here, as in most communities, are devoting most of their attention to zoning and rezoning cases rather than to advance planning.

If the community had a master land plan to guide its growth, the wasteful use of our land we are now witnessing would not be taking place.

As an example, I call your attention to the fact that home builders here have just about used up all the land in metropolitan Tucson zoned to allow the construction of three homes per acre. They must now use land allowing densities of no more than one home per acre. And only a very limited amount of this type of land is available—perhaps enough to last for only 2 or 3 years at our present rate of growth.

Then the homebuilder will be forced to use land zoned to allow only one home on four acres. Such land use quite obviously is very wasteful of our beautiful desert areas and forces more urban sprawl.

Such extremely low densities will also make the cost of housing to soar above the ability of the low-income, or in many cases, even the middle-income, family to pay for shelter. The house will have to be extremely small because of the high ratio of land cost to building cost. Services such as fire and police protection will be practically nonexistent. Roads, because of the low densities, will either be unimproved or very expensive to the community to construct and maintain.

Such ridiculous waste of land would not be taking place if proper advance planning had been done here.

Nor would we have raw sewage running in some of our streets if proper planning had been done.

And we would not have such serious transportation problems if proper advance planning for parkway routes had been completed and adopted.

This county is one of the few places in our Nation which does not permit the use of the Planned Unit Development, PUD, concept of cluster housing. Over 300 other communities in this Nation are using this method to conserve land and make housing available at lower costs to home buyers, but not Tucson.

I cite these examples of poor land use as evidence that even a modern city like Tucson needs assistance and direction from some higher authority to properly plan for the use of land, America's most valuable physical resource.

Many other communities likewise do not have proper planning programs. They too need the direction and financial assistance that Senate bill 268 will provide.

I have read Senate bill 268 and I believe that this type of national land use policy is needed to assure the wise use of those portions of land needed to provide homes, employment centers, recreational, medical and educational centers, and the proper conservation of other lands for open areas, green belts and general public uses.

I urge the passage of Senate bill 268.

Senator FANNIN. Thank you very much, Mr. Drachman. You gave us two very forthright statements for consideration. I would like to remind you that sanctions were in committee bill S. 632 last session and will probably be in the bill this year before it goes out of committee.

They are working now on the floor, and I must confess I voted against having sanctions in the bill because I feel that the States are going forward and I feel that the people of the communities are demanding that the communities and the State take action.

Mr. DRACHMAN. Of course, if the States comply, they don't need anything.

Senator FANNIN. That is true, but it is feared by many Governors that the severity of the sanctions create problems. In fact it has been expressed to us that perhaps understandings will be made or agreements will be concluded that are not to the satisfaction of the States, the results of which could cause suffering.

Mr. DRACHMAN. Well, I am sure with your experience and the other Senators that you will do the right thing.

Senator FANNIN. We will make every effort.

Thank you very much.

Mr. DRACHMAN. Thank you.

Senator FANNIN. The next witness is Mr. Ed Nelson, Southern Arizona Chapter, AIA.

Mr. Nelson, we welcome you here this morning and appreciate your being with us.

#### STATEMENT OF ED NELSON, SOUTHERN ARIZONA CHAPTER, AIA

Mr. NELSON. Thank you very much, Senator.

Mr. Chairman, I am Edward H. Nelson, AIA, representing the Southern Arizona Chapter of the American Institute of Architects, chairman of our civic action committee, and a practicing architect in Tucson.

We architects of southern Arizona are grateful for the opportunity to be heard by members of your Senate Committee on Interior and Insular Affairs on matters of such importance to the people of this State. On behalf of the 130 members of our chapter, I will express, in the allotted 10 minutes, our support for Senate bill 268, and suggest certain revisions to the bill and suggestions which we architects think are most important in order to fit a national land use policy to Arizona.

#### SUPPORT FOR THE BILL

As Senator Fannin knows well, and I am sure you all know, Arizona's warm climate and fantastic scenery make a mecca for tourists, for elderly retirees, and for young families. As a result, it is one of the fastest growing States in the Nation and is experiencing all the symptoms of too rapid growth. Real estate activity has been at a high level for many years and Arizona's lovely mountains and valleys bear the scars.

It is already too late to correct many abuses of our natural resources. Growing conflicts exist between subdivision developers and mining companies for underground water, clear air, and views of natural scenery. Conflicts exist between utility companies and metropolitan area residents over aerial rights-of-way. Urban dwellers are fighting off the encroachment of the urban freeway. Farmers and homeowners have already battled over water rights and there are more legal battles ahead. Remote subdivision speculators have irrevocably diced up the land in all parts of this State under existing regulations of county governments.

There is no going back and reclaiming the rolling grasslands of our beautiful valley or the fragile desert landscape or the farms and forest lands where the bulldozer has been at work making swaths that will, in most cases, never be paved roads. It is only a matter of time when every valley with privately owned land will be sterilized for the use and enjoyment of future generations by being overlaid with open rural slums. When one considers that there are three times as many lots for sale in remote subdivisions of this State as can be occupied by the year 2000, assuming the current growth rate and also assuming that everyone will want to live in these subdivisions rather than in the cities of the State, one can only picture a typical remote subdivision with one lonely house on each 10th or 20th lot and the rest of the lots in the hands of estates and multiple ownership—never to be reassembled for public use.

The fringes of our Arizona cities are also expanding in uneconomic leapfrog fashion to provide needed housing for our rapidly growing populations. Some of our city and county planning commissions are trying valiantly to guide the growth in the public interest so that it makes social and economic sense for the benefit of the taxpayers. However, they are almost powerless. They need to have their hand strengthened by planning at the State and Federal level. This is the picture we face in Arizona. We need reinforcements in order to reorient ourselves to a policy of planning for land use which will be forever in the public interest and consistent with the rights of the individual and we cannot continue to wear 19th-century blinders about how Government land must be used. A Bureau of Land Management official said last week during negotiations about a land trade near Davis-Monthan Air Force Base:

Because the land which the Federal Government would receive from the city does not carry grazing rights, the BLM property which would be traded to the State also cannot carry grazing rights, because the Federal Government does not want to decrease the amounts of grazing land it now holds in Arizona.

These are the reasons we architects support Senate bill 268 vigorously and enthusiastically.

#### REVISIONS

I would like to urge your consideration of several revisions to the bill which would, in my opinion, strengthen it, and make it more effective to deal with the burgeoning problems we face in this State, where the land still in private ownership is being coveted by those who wish to develop it for their own gain.

Most important is to revise section 510, and I should explain my confusion over what version of the bill we are addressing our remarks to. The April 2 Tucson Daily Citizen made reference to the spending of \$220 million over 5 years, an amount greater than the version I have read. However, I can only comment on the January 9, 1972, edition. We suggest that the \$40 million allocated during each of the first 2 years, which on a per capita basis would mean 20 cents per person, or \$60,000 for the Tucson area or \$400,000 for the State, would be increased to at least \$100 million a year. We also suggest that the annual authorization constitute a 90-percent share available to the States for land use planning and program implementation. This amount does not seem like too much when compared with the Department of Housing and Urban Development's support of the section 701 comprehensive planning assistance program, which was about \$100 million per year for the last 3 years.

Also very important is to increase sanctions for those States not participating in the planning program. Here again, my copy of the bill is out of date, as Governor Williams appeared to be attacking the sanctions of a later edition of the bill as reported by the press April 2, 1973. Instead of sanctions consisting of ineligibility for Federal planning grants if the State has not submitted a land use program and request for a grant within the first 7 years, we suggest that sanctions be more compelling. If Federal water-sewer, transportation, and recreation assistance were withheld from States not developing land use programs within 5 years, the excellent and farsighted findings

in section 101 of the bill would have more chance of early implementation. In Arizona, 5 years is critical when it comes to large-scale subdivision of land.

Another revision which could become very important is the removal of section 303(f), which invites an aggrieved property owner to bring suit in the event of his land being restricted in use or diminished in value by State action. The right of court action is always available to anyone. It seems unwise to invite it. Enormous problems could result.

A corollary to this section should be the returning to the public of unearned increments in land value or windfall profits due to public investments such as freeways, major recreation facilities, and the like located on or near private properties.

We recommend that the State planning process should study and find means to capture these unearned increments for the public.

Two final points I would like to make about possible revisions are: first, instead of declaring in section 507(d) that "no funds granted pursuant to this act may be expended for the acquisition of any interest in real property" it may be advantageous to set up mechanisms for public acquisition of lands and capital infrastructure in accordance with land use and development goals. Perhaps State chartered development corporations should be encouraged as New York has done. Finally, we suggest that the bureaucratic representation on the National Advisory Board on Land Use Policy, as listed in section 203-(b) might, in the interests of broadening its thinking, be augmented by a member of the American Institute of Architects and American Institute of Planners. This action would give balance to the Government representatives who are focusing each on his own sector.

I would like to reiterate that the passage of this bill is of paramount importance and even though these suggested revisions are extremely important to us they should not be allowed to jeopardize the bill. We realize that the bill has come a long way and has many obstacles before it can be enacted into law. We only ask that you give full consideration to these recommendations. Thank you.

Senator FANNIN. Well, thank you, Mr. Nelson and we will give full consideration to your recommendations.

The committee print under S. 268 is \$170 million over 5 years, \$40 million for each of the first 2 years, \$30 million for each of the last 3 years.

Now, understand we are talking about 8 years, the full fiscal year period following enactment of this act, they are authorized to be appropriated and then it enumerates the amounts discussed.

Mr. NELSON. The \$220 million, is that for the first year?

Senator FANNIN. Well, that could be. We are still in the formulation stage. We would not like to make statements that would be misleading. Just like when we are talking about sanctions, the sanctions will probably be incorporated in the bill as it goes to the floor.

If we follow the same procedures as last year, it will probably be removed on the floor. At least that was the objective of many of the Senators involved in removing the sanctions in the last session.

Now, I do feel that we must protect the States and I won't favor severe penalties that I think would result in perhaps an uncooperative attitude rather than a cooperative attitude.

What we are trying to do is bring about a sense of balance that will assist in getting a full implementation of the recommendations that will be made to us that will be beneficial to the whole community, No. 1, then the State and then the Nation.

In others words, we follow in that order. But I do thank you very much for your fine presentation.

Senator FANNIN. The last witness for this morning, Mr. Walter Heinrichs of Southwest Mineral Exploration.

#### STATEMENT OF WALTER HEINRICHS, SOUTHWEST MINERAL EXPLORATION

Thank you Senator Fannin, ladies and gentlemen. First to frame my remarks, I am a geologist and member of the Board of Governors of the State Department of Mineral Resources. I was born in Superior, Ariz., lived in Pittsburgh, Penn., several places on the east coast, U.S.A. Was raised all over western U.S.A., attended high school in Philippines and traveled or worked there and elsewhere in the Orient, South America, and Australia. Served in the Navy in Alaska, Washington, D.C., gulf coast, and east coast U.S.A. My hobbies are skiing, camping, travel, and more lately contemporary government. I represent a third generation attachment to the mineral and energy resources business and am active in a number of related professional groups, such as the American Institute of Professional Geologists of which I am Arizona State Coordinator and Southwest Minerals Exploration Association, a group of 50 or so personally financed individually publicly concerned geologists, of which I am public hearings committee chairman, and on whose behalf I am testifying today.

In principle, the objectives of S. 268 are commendable. In detail, However, the results represent a hasty, too slanted, do-something-even-if-it-is-wrong approach, in spite of the obvious great preparation effort involved.

Rather than full governmental statemanship, the obvious primary direction of this bill is political appeasement of the current environmental clamor. The comprehensive effort and approach are admirable and intent is pious.

But real appreciation of the true scope and magnitude of associated complex problems and involved side effects is lacking. Instant solutions to evolutionary land use problems are not possible and will only be achieved by much effort, understanding, and cooperation over a long period of time.

In spite of these basic deficiencies and excessive use of platitudes, the bill, if adequately amended, could prove socially useful. To be more categorical on these points will require considerably more consideration and evolution. One broad statement of theoretical planning benefits versus wise applications of planning principles are two vastly different things. The most fatal social error in this bill is that it avoids the fundamental fact that human esthetics and material well-being are not universally compatible absolutes. Delicate compromises will be mandatory if we are to achieve the best of both for the majority. This is especially true with respect to the maintenance of our extremely precarious domestic nonrenewable subsurface resources which are totally immovable and solely divinely located without regard to human

plan or esthetics. Material seeking, energy prospecting, finding, and exploration are indispensable land uses and they must be almost everywhere allowable if we are to continue any semblance of self-sufficiency. Mining or production and development on the other hand is an entirely distinct and separate operation requiring very little total area but having no choice as to where that area must be located. Once a deposit or energy source is found it may or may not be wise or necessary to immediately mine or use it, but the location and evaluation process, that is, exploration, must go on continuously and thus is an inseparable, primary, and fundamental part of any intelligent land use plan.

The reason is absolutely compelling and focuses on the basic element of the natural resource problem; namely, environment or ecology and balance. One of the most fundamental nonliving factors in our environment is the whole Earth itself—in other words, geology. Geology is the key factor in all land use planning and for the most wise natural resources management. This especially applies to wildlife preservation, recreation development, water supply management, reclamation, agriculture, urban development and coping with the so-called natural geologic hazards, such as earthquake, volcano, fault and flood control, and including soil conservation for farming and even the mundane, but now scarce sand and gravel deposits for essential building purposes.

Energy and mineral resources are basic to the quality of life in a materially oriented urban society. Their importance is so great that to fail to recognize their significance now, will be cataclysmic to our way of life. Therefore, in defining the purpose of any land use bill, we must not dodge the issue of wise utilization, or conservation, versus the issue of preservation.

Ultimate survival may depend on decisions related to these issues. In searching for the maximum quality of life we must achieve balance between improving and protecting and utilizing. In other words, balance between quality of life and quality of environment. Simultaneous and perfect achievement of both is not realistic except as an ideal goal or utopia. Therefore, it is imperative, for best legal semantics and social communication, as well as enlightened self-interest, to actually include specific reservations for exclusive energy and mineral purposes and nothing else—as are wilderness areas exclusively reserved.

Though recognition is paid to the need and the existence of mineral and energy resources and to the need and existence of mines, and wells, little is understood about the imperative geologic exploration and/or prospecting process required to get from one to the other.

Already we are experiencing serious domestic energy shortages and are beginning to feel increasing worldwide shortages in food and materials. In spite of our best efforts, these adversities will become worse in the foreseeable future. Therefore, we must avoid emotion and proceed deliberately with hard thinking and statesmanship to sell the public on what is needed for the common weal.

This is why economic geologists are so concerned about permanent wilderness withdrawals even before cursory, let alone adequate, resource appraisal is made or reconsideration to open to prospecting is allowed, or any remote thought given to preserving reserves exclusively for mineral or energy exploration purposes.

Thank you for your attention and time to present this testimony. If you have any questions, I would be pleased to try to answer them now, or at any time in the future, our group are always interested and available to assist government in areas involving our interest and competence.

Senator FANNIN. Thank you, Mr. Heinrichs. I do appreciate your statement. I think you feel the legislation must present a balanced approach to land use decisionmaking, is that right?

Mr. HEINRICHS. That is correct.

Senator FANNIN. I would like to read a statement made and see if this is your feeling.

"Federal policy should be provided to encourage land use decision-making which provides a balance between competing values and requirements and which favors no particular mission, be it economic, social, or environmental."

Mr. HEINRICHS. I think that is a good statement. The implementation is what worries me mostly.

Senator FANNIN. Thank you again. I appreciate your being with us.

We will recess until 2 p.m.

[Whereupon, at 12:08 p.m. the committee was recessed, to reconvene at 2 p.m.]

#### AFTERNOON SESSION

Senator FANNIN. The field hearings will be resumed.

The first witness this afternoon will be Clague A. Van Slyke, Southern Arizona Homebuilders' Association.

Mr. Van Slyke, you are welcome this afternoon.

#### STATEMENT OF CLAGUE A. VAN SLYKE, SOUTHERN ARIZONA HOMEBUILDERS' ASSOCIATION

Thank you, Senator, and members of the committee.

I submitted a prepared statement. The comments I would like to make are relatively brief.

The Southern Arizona Homebuilders' Association, for the record, is a group that builds approximately 85 percent of the single-family dwellings here in Arizona and as such has a vital interest in land planning in the State of Arizona.

Last summer the association with its persons interested in land planning in Arizona decided that the State should hopefully embark on some land planning program and we have—we like to think we have been in the forefront of three bills which are presently before the Arizona House and Senate.

We would hope, and I know Governor Williams and other people spoke yesterday in Phoenix, we would hope those State bills do pass and we find Arizona occupying a position which would be in accord with this bill if and when it should pass.

The purpose of the bill is one which is broadly expansive in representing the Homebuilders' Association. We would like to add or request that one additional insertion be made in the bill, and I have given a line and page, page 5, line 20, that there be inserted within the bill the statement that one of the purposes of the bill would be to provide adequate housing for all income groups within the United States.

The people who review this for your committee I am sure have looked at many cases in the courts that keep coming up in the courts around the United States about exclusionary zoning and fiscal zoning which is very much in evidence in some of the communities in the United States and unfortunately the Homebuilders' Association feels that the last census tracts and the data that relates to Tucson would indicate that we have in effect in this community a good amount or a bad amount, depending on how you want to look at it, of exclusionary zoning practices in our ordinances.

We feel that by making this an item of national policy that it would add an additional weight to any litigation that might crop up in the United States concerning the subject for adequate housing for all segments of our community.

Our experience in Arizona has resulted in the conclusion that many persons are interested in planning and zoning and land use that are not government employees and not elected officials.

With due deference to the committee and the staff who are here today, these citizens have much to offer but in reading the bill I notice that the Advisory Board on Land Use Policy as set forth on page 11, line 4 of 24, and the Government's Advisory Council are made up of persons who are not citizens, who aren't involved in government.

At least in Arizona there are substantial persons, people who have been president of the Urban Land Institute, members of the board of directors of the National Homebuilders' Association, planners who have been active in the American Society of Planning, other persons who have the ability to assist in these two boards.

I am sure naturally there are persons of renown with time and energy needed to assist in this national advisory board.

We specifically make a recommendation that the advisory board on land use policy contain 10 members at large who are not government employees or elected officials but representatives of the public's concern for State and land use planning.

One of my associates who spoke to this committee this morning, Mr. Wilson, tells me in my reflection on this item and I am a little naive, I should add the 10 members at large who are not government employees and have not been in the last 5 years.

Then you would be sure you achieved people who came from the government.

The local government board says that it will be composed of elected officials from the communities. This is on page 22, line 10.

We would suggest that that group be expanded also. That for each mayor on the committee, that one citizen of that community who is not a government employee be included. No reflection on the mayors of Phoenix or Tucson, but there are other people in the community who might be a little broader based or at least as broad based when it comes to land planning that for one reason or the other decided they wouldn't seek public office and we think that within the bill a real shortcoming in these two areas is that no citizens are on these two particular boards.

One other area that causes concern in Arizona is because of the tremendous amount of State trust land and Government land within the State.

I am sure you gentlemen have heard these figures in the proceedings before. My understanding is that within Arizona 15 percent of the State is private land.

The State of Arizona has taken the position, through its land department and others, that someone zoning by county does not and cannot control State land. That is probably a legal conclusion that is correct. We think on page 21, line 3, after the word "Program" you should include the words private, public, and State owned lands, so that the State lands are covered by your bill.

The idea of a State plan, we think, is a good one for many reasons. As the cities tend to divide their certain little sphere of rights within that county, I am sure the Maricopa County people feel the same way.

Here in Pima County we have one major city and have no faults with its program. We agree in many instances local pressure affects land use program. Final control of State development should rest with State founded programs.

The ultimate rules and regulations of those State programs would be hassled out here in the State and I am sure would give a good program to the State and all of its communities.

One item of the bill that I am sure many people have commented on is set forth on page 26 which refers to the rights of owners whose property may have lost some of its use because of planning functions.

This, of course, is a constant problem in the never-ending battle of tradeoffs between local governments and persons attempting to secure zoning and build projects. Some are good tradeoffs and some are bad but many times in our opinion people's rights and land are taken without compensation.

We think this section is a very good amendment to any land use plan or any land bill. We would like to see it expanded a little bit, on line 8 after the word State, to include any other political subdivision because as I understand the State land planning process the State will make a plan and probably the cities or counties will implement it.

Therefore, I can see some well versed city attorney saying yes, we have taken your land, but it wasn't done by the State, or we have taken your use, but it wasn't done by the State, therefore, you have no claim under this section.

In conclusion, I would like to say the Southern Arizona Homebuilders' Association and the board of directors have gone over this bill, have discussed it with their directors. In the last 2 weeks we have been there and discussed this bill and we would like to say we support it.

As it stands, we think it would be an implement that is needed to foster good State planning, and we hope sometime during this session the Congress will see fit to pass this bill.

Senator FANNIN. Thank you. We do appreciate your support of the land planning legislation.

We do desire proper representation on the boards and council. That certainly is a good recommendation and we hope that will be provided. We are concerned as to the number of boards that will be involved and that is something we will try to take care of as we proceed with the markup of the legislation.

You say we recommend on page 5, line 20, after "United States" the insertion, "to provide adequate housing to all income groups within the United States."

Now, do you feel that we should try to have included in this legislation any understanding that broad? This might be a goal but to provide legislation—

Mr. VAN SLYKE. As I read the declaration of policy, it is a broad statement already.

Senator FANNIN. It is broad but you have broadened it quite a bit in this instance. We are covering just generalities, but then we get down to specifics when you start saying provide adequate housing to all income groups in the United States.

I am just wondering if you would expect anything of that magnitude to be included in this legislation?

Mr. VAN SLYKE. Senator Fannin, I think somewhere, and I know there is other legislation on this subject, but somewhere, if you are going to pass a national land planning bill, this key segment of society's problems should be covered some place, in my opinion.

Senator FANNIN. As a goal?

Mr. VAN SLYKE. As a declaration of policy and a goal, for the States to pass their land plans and that they consider housing of the people of the State in their land plans.

Senator FANNIN. It is certainly a worthy goal but I just don't know about making this change. But we will review it and certainly your testimony will be part of the record and will be called to the attention of other members of the committee and we will see what can be done.

On one of the other items, our political subdivision of the State, we do have, I think the wording that we have now could be misleading because I think it encompasses what you have in mind.

We can't designate counties and we can't say municipalities and in so many of the States they are designated differently than in others.

So we will take that into consideration. We do appreciate very much your testimony and thank you for being with us today.

Mr. VAN SLYKE. Thank you for being here in Tucson.

Senator FANNIN. The next witness will be Priscilla Robinson, Southern Arizona Environmental Council representative.

You will please give us your address.

#### STATEMENT OF PRISCILLA ROBINSON, SOUTHERN ARIZONA ENVIRONMENTAL COUNCIL

Ms. ROBINSON. I am Priscilla Robinson, 2314 Esline Road, president of the Southern Arizona Environmental Council, and I am speaking on behalf of that organization.

The council consists of 31 member organizations in this community and I have given each one of you a brochure and the list of organizations is on the back.

The council does not have a specific position on this piece of legislation. If you look at the list of organizations you will see why that would be difficult to get. However, although these groups are interested in a wide variety of environmental problems, the issue of land use is probably the problem of the greatest common concern to all of them and that is an education of the fundamental nature of land use problems in all environmental problems.

We do have a position on land use planning. We very much recognize the need for comprehensive land use planning in southern Arizona, particularly, where we face two problems.

One is very rapid urban growth in this area. The other is a great increase in the pressure for resource development in the unpopulated areas.

So we have kind of twin problems operating in our environment at the same time. We have no tools at the present time in this State or county for land use planning.

The Southern Arizona Environmental Council has recognized that this is an area of critical concern. We have backed legislation on the State level in the past and, of course, none of it has passed. We are hopeful we will get some this year. I know the Governor assured us yesterday that some of it will pass. I hope his confidence is justified.

We hope, along with Mr. Van Slyke, this legislation will pass. However, it does seem useful to us for there to be support and encouragement from the Federal level and assistance in this planning to back this up.

Our State has not been fast to meet these problems and the problems are very critical in southern Arizona.

So in general we are encouraged by the appearance of this kind of legislation from the Federal level.

I would like to say that when we are concerned about environmental problems, the council is not just talking about the preservation of endangered species and the preservation of scenic areas, although these things are important.

The fundamental problems here are the preservation of our water resources, which are acute, and of course land planning decisions are critical in the eventual outcome of what happens to our water resources.

This is probably going to be the key to the land planning problem in Arizona. We are concerned about air pollution and this State may look clear to you gentlemen who are from out of State, but it doesn't always look this way and isn't always this way unless we take steps now to protect it.

We are concerned about the direction and size and shape of these rapidly growing communities and most of us spend most of our lives living in communities. These could only be protected as good places to live for everyone at every income level by good land use planning.

I have a couple of specific things about the bill. The council is concerned about maintaining citizen participation in all kinds of government actions, particularly land planning.

I agree with Mr. Van Slyke that this board needs representatives from the public. This seems like a critical thing to me. It also seems to me that section 302, the provision for citizen participation, could be strengthened so that citizen input was assured from the outset. I am not sure how this should be done. It might be possible to provide ways that citizens could nominate areas of critical environmental concern so that if some areas or considerations are overlooked by State agencies, community organizations can point them out and bring them to the attention of the States.

I am not sure in reading the bill, whether the indication about public hearings is permissive or mandatory. That may be my inability to understand legislation but I definitely feel it should be required at all levels throughout the land planning process so community organizations can participate.

This seems like the most important thing. Concern for water resources does not seem to have a very big mention in various areas of critical environmental concerns. It seems to me water recharge areas might be added in section 501 as a kind of area of critical concern and there might be more mention of this possibility in other places in the bill.

In general we commend you for tackling a difficult problem. I think it is a very important problem and we are very hopeful that you will succeed and be able to do something for us.

Thank you.

Senator FANNIN. Thank you Mrs. Robinson, and we do desire to have proper representation as you have suggested and others have suggested, and the technical assistance included in all the bills.

So the funds are included. Of course it is the amount of funds that are in question and an inventory of the areas of our State is provided in most of the legislation that we are discussing.

Water resources, of course, is always a top priority in Arizona, but I will admit that naturally sometimes it doesn't get mentioned or receive the top priority that it should.

We very much appreciate your being here with us today. You have an impressive list of organizations on this list. I appreciate your interest and for your taking your time to be with us today.

Ms. ROBINSON. Thank you.

Senator FANNIN. The next witness, Mrs. Earl Pingry, Audubon Society.

#### STATEMENT OF MRS. EARL PINGRY, AUDUBON SOCIETY

Mrs. PINGRY. Senator Fannin, members of the committee. You may wonder why Tucson Audubon Society sends a representative to this meeting but we have 1,100 members now. We got 61 last month and we are no longer just bunch of birdwatchers. We have become vitally concerned with conservation members.

Senator FANNIN. We are pleased to let you know we have heard from Audubon Society representatives in both Washington and Phoenix, and we will be pleased to hear from you.

Mrs. PINGRY. I want you to know that even if we were just bird-watchers we would want the kind of environment that birds can live in.

I deplore the need for Senate bill 268, because it is true that that nation that is governed least is governed best, but the United States of America have shown little aptitude for self-government. In fact, the early settlers came to this land because they couldn't get along in the countries where they were living. They wanted to do as they pleased and they haven't changed much since. There are thousands upon thousands of laws on the books but we cheerfully ignore them. It's the sporting thing to do. Go merrily on your way until you get caught, then scream your head off that you've been framed, it's the accepted procedure.

I notice that under section 101(d) mention is made of the fact that failure to conduct competent land use planning has resulted in delay, cancellation of development, generation and transmission of energy, and so forth. Human greed caused a lack of desire to conduct proper land use planning. But there were the intelligent people of the Federal Congress and the Arizona State Legislature when this was going on? What was the Secretary of the Interior doing while the Alaska pipeline was being started? He already was charged with the duty to protect certain public lands and in so doing he should have deduced that the Alaska pipeline project needed looking into. He didn't need Senate bill 268.

This is true also of the Four Corners development, the great scar of the slurry pipeline all the way across the desert from northeastern Arizona to west central Arizona. California passes a law that there shall be no coal burning electric plants in California and California Edison, Tucson Gas and Electric Co., Arizona Public Service and some company in New Mexico, I presume, rush right up to the Four Corners and start digging coal and moving it by pipeline to the smoke-spewing plant on Lake Mohave. Why? To supply California with more electric power. Not a soul in Arizona knew a thing about this rape of our beautiful State? You'll never make me believe it. Human greed again.

On page 7, section 103 under purpose (a) "to establish a national policy to encourage and assist the several States to" et cetera needs teeth and should read "to establish a national policy to require the several States to more effectively exercise their constitutional responsibilities", et cetera.

On page 12 under National Advisory Board section 203(d) concerning agency representatives who will make up the nucleus of permanent employees: provisions should be made for changes in personnel so that no nucleus person stays on the board longer than ten (10) years. These people should not be of the "hide-bound variety."

Page 13(e) The Advisory members of the Board should serve staggered terms so that there are always some old members to assist some new members, who presumably might bring fresh ideas to the advisory group.

Page 14 section 204. The States are authorized to: should read are required to, et cetera.

Far too much Federal money has been thrown away through grants. They represent "busy work" for far too many cities, counties and States. Why not try to work out a system so that grants can be rewards instead of bribes?

Page 39 section 401(b). Publishing of a draft statement 45 days and a final statement 15 days prior to the establishment of a new program does not seem like ample time to allow this information to sift down to the farthest reaches of our land. The Postal System is slower than the old Pony Express and although people might get wind of a proposal, the complete plan must come by mail. Many people who work in conservation are laymen and we require time to seek advice from scientists, who don't have the time to do the leg work we can do. In fact this hearing is a good example. We had less than a week to read this "excerpt", think about it, and talk with other people, type up our reply and get it down to a photo-offset place to have 20 copies made. Two or 3 weeks would have been better. Tucson newspapers don't pick up environmental news unless they get an AP release. They don't believe Sierra Club news or National Audubon news, or National Wildlife releases. Only AP News comes from God, according to them.

I assume that people in Phoenix told you about the Arizona Trade-Off Model "invented" or "devised" by the research section of the Arizona Department of Economic Planning and Development. Though it has a peculiar name, it would seem to be a very useful tool for all types of decisionmaking. It is composed of a battery of interrelated computers which have been programmed to furnish de-

cisionmakers with information about the "trade-offs between the economic and the environmental consequences of policy alternatives, for instance.

I suggest you ask Arizona Department of Economic Planning and Development, 3003 North Central Avenue, Phoenix, Ariz. 85012, telephone (602) 271-5001 for additional information. Battelle Memorial Institute, Columbus Laboratories assisted in the development.

Senator FANNIN. Thank you for your frugal thoughts and I will certainly take into consideration what you have said. The excellent recommendation of the staggered terms are appreciated and we do thank you for being with us today.

The next witness will be Dorcas Worsley, Arizonans for Quality Environment.

#### STATEMENT OF DORCAS WORSLEY, ARIZONANS FOR QUALITY ENVIRONMENT

Mr. WORSLEY. Senator Fannin, staff. You have our statement for the record, and I will read it.

Senator FANNIN. Your complete statement will be made a part of the record and you may proceed as you desire.

Mr. WORSLEY. Arizonans for Quality Environment (AWWW, Inc.) appreciates the opportunity to present this statement for the record at the public hearing in the city of Tucson, April 3, 1973, on S. 268, the Land Use Policy bill now under consideration.

Land use policy and planning are assuredly most urgently needed in the country today, and concern every citizen as well as local, State, regional, and national government officials at many levels and in many agencies. Land use includes a multiplicity of programs, projects, grants, and subsidies. A good bill can make a great difference in the life of all citizens. We are, then, in agreement with title I of the bill: Findings, Policy, and Purpose, as stating the need for Federal legislation.

With reference to title II, Administration of Land Use Policy, we note a significant omission in the makeup of the National Advisory Board on Land Use Policy (Sec. 203(b)), in that there is no provision for any public representatives on this board. We urge the addition of representatives of the public, selected with due regard for their knowledge and experience in the field of land use.

In the remainder of the bill, titles III, IV, and V, we find a number of serious weaknesses that need to be strengthened if the legislation is to accomplish its stated purpose:

1. Guidelines and standards for the States must be more explicit, with appropriate sanctions if the guidelines are not followed. Generalized guidelines will not do the job. The States have been lax in the whole field of land use, and will continue to be so unless national standards are mandatory.

2. S. 268 bypasses most of the deleterious land use taking place today in that it does not apply to land use in or near large metropolitan centers. By focusing exclusively on "large-scale developments" the bill makes no provision for wise use of land in or near urban centers, where most of the serious problems exist and continue to proliferate, due to lack of implementation of good master zoning and planning. Are these areas to continue urban sprawl, unsound development of

floodplains and earthquake-prone hillsides, development along arterial streets and highways, with inevitable transportation problems?

3. There is inadequate provision in the bill for public participation. S. 268 does not specify how, where, or when public hearings are to be held, and fails to provide for public input as to the development, revision, and enforcement of State plans.

We respectfully urge the following changes in the bill:

1. Ecological categories (floodplains, highway intersections, et cetera) should be established by the Office of Land Use Policy, for which the States must write substantive land-use guidelines, subject to public hearings. These approved guidelines must then be followed by all land-use agencies at any level in the State when approving or denying any type of development.

2. States must be required to identify and set aside their environmentally critical areas, and to issue only case-by-case permits for developments within or near them. Only those developments for which no alternatives can be found should be approved, after public hearings.

3. States must issue enforceable guidelines, again after public hearings, for counties and cities when approving or denying residential development of more than 50 housing units. These guidelines should require the provision of adequate sewers, roads, schools, libraries, parks, police protection, and first-year operating revenues before such developments are approved. Air and water pollution, floodplain and other ecological standards should also be written into the guidelines, subject to applicable Federal and State laws.

If these changes are made, S. 268 will have the "teeth in it" to make it viable. Otherwise, it is just an exercise, full of administrative machinery, but without real power to achieve any substantive improvement in land use policy and planning.

Senator FANNIN. Thank you.

Now, I do want you to know that the bill is being redrafted, as we have explained, and the public input will be there, I am sure, at every level.

Thank you very much.

Mr. WORSLEY. Thank you.

Senator FANNIN. The next witness is Robert L. Coshland.

#### STATEMENT OF ROBERT L. COSHLAND, NATIONAL PARKS AND CONSERVATION ASSOCIATION

Mr. COSHLAND. I am Robert L. Coshland. I reside in Tucson at Route 8, Box 550B, Tucson, Ariz. 85710.

Gentlemen: This statement is presented on behalf of the National Parks and Conservation Association, of which this witness is the Arizona representative. Your invitation to testify is sincerely appreciated, particularly here in Arizona in light of the land use problems with which this State is confronted. Additional views will be presented by the Washington headquarters of NPCA when hearings are conducted at the Capitol.

Thorough review of the proposed legislation reveals it as a highly commendable step toward achieving rational conservation of land resources which, once disturbed or removed, are usually impossible to

restore to their original condition. Senator Jackson is to be congratulated, and the adoption of this or similar legislation is strongly recommended.

The purpose of this hearing being to elicit constructive suggestions, the following comments are submitted with the intent of strengthening the measure rather than criticizing it.

SEC. 103(a). There appears to be no compulsion on the States to adopt land use planning programs, beyond the offer of financial assistance and guidance. There is precedent in existing statutes for making it mandatory, and it seems appropriate in this important issue to change the "encourage" to "require." All of the excellent provisions of the act which follow would be of no effect in a State which chooses not to comply.

SEC. 203(b). Consideration should be given to including in the composition of the National Advisory Board a number of representatives drawn from various elements of the general public such as labor, business, specialized professions and technical disciplines, and, most importantly, the conservation community. It is respectfully submitted that such participation is essential to the fulfillment of the duties set forth next in subsection (c).

SEC. 302(b), par. (7). By the same token, public inclusion in the composition of State advisory councils appears equally pertinent. These councils should not be confined to elected officials of local governments, many of whom are not qualified in the special skills and technical disciplines essential to development of proper and impartial advice required in any particular situation. Citizens who do possess those qualifications, other than elected officials, should constitute a majority of the advisory councils. Recommendations by those councils so constituted should be the primary bases for actions taken by the State land use planning agencies.

The reasons for the last two suggested revisions should be explained at this point. At State and local levels, the general public has consistently been at the mercy of "big business" which has tax-deductible funds with which to: (1) conduct research into land uses for the purpose of augmenting profit regardless of the impact on the interests of others; (2) engage in public relations to influence public opinion; (3) negotiate advantageously with government agencies; and (4) achieve its objectives by publicizing the community benefits which supposedly result from large-scale operations. (We would note, this isn't necessarily so.)

"Big business" and the government agencies with which it deals can afford the expense of full-time paid staffs to accomplish the above objectives. The general public consists largely of loosely organized groups of individuals, if indeed they are organized at all, whose time is primarily occupied with earning a living and raising families. Their time and resources for combating adverse influences which may be contrary to the National, State, or local best interests is extremely limited and fragmented.

SEC. 302(a), par. (12) and (13), and (b), par. (5) and (6). These are essential provisions with laudable objectives. For the reasons just given, however, public participation in the past has frequently been an exercise in frustration. Altogether too frequently, decisions are dominated by special interest groups which have preconditioned the decisionmaking agencies. Public hearings as may be required by law

consequently amount to little more than going through the motions of formality. It is our cautious opinion that adoption of the suggestions in the preceding section would contribute to correction of this situation.

SEC. 502. It is earnestly urged that the guidelines issued by the Executive Office of the President be broadened to include an itemized listing of prime areas of national interest to be promoted by actions taken by Federal and State land use planning agencies. Examples are in order to explain this suggestion:

#### THE DEFICIT BALANCE IN INTERNATIONAL PAYMENTS

Controversy has recently centered on the need to increase timber cutting for export purposes, rationalizing that this would improve our deficit status. However, if the overseas buyers then convert such lumber into finished wood products for resale in this country, the deficit is increased on balance, and we would, nationally, be better off not to have cut the timber in the first place. Here is a case in which a list of national priorities would guide the land use planners toward avoiding the use of timber resources in this manner.

#### THE COST OF SUBSIDIZING EXCESS CROPS, COUPLED WITH THE GROWING SHORTAGE OF EXISTING ENERGY SOURCES

Before developing this illustration, it should be emphasized that it is not intended to disparage the central Arizona project as such. It is an example which strikes close to home here, however, and is presented primarily for that reason.

The principal product which Arizona has for sale is not copper, nor tourism, nor manufactured items. It is sunshine, it is free and replaceable, and it can be exported in various forms. It brings revenues through pensions paid to relocated retirees. It attracts health seekers. It grows crops, provided sufficient water is available, and for many years cotton was the principal crop. But for decades the Nation's taxpayers have been subsidizing farmers in the Gulf States, where rainfall is abundant, to reduce their cotton acreage. At the same time, Arizona's water resources have been drained and the CAP has been authorized to promote cotton production in an arid land. Clearly, this is not in the national interest.

On the other hand, the same solar energy which is exported in the form of surplus fiber can be far more usefully exported in the form of electric power. This is equally clearly in the national interest. The broad techniques for producing solar power already have been developed, and if utilized on a large scale would be competitive with nuclear power, over which many disagreements currently exist. The conclusion is obvious: replace cotton farms with solar farms and the land use planners in a single stroke will have resolved two national problems. As a byproduct, they may possibly also have saved the expense of building the CAP, and this in turn would help solve another issue of national concern:

#### THE GROWING DEFICIT IN THE NATIONAL BUDGET

More and perhaps better examples might be cited, but the central point is that the guidelines provided for in section 502 should include a list of national priorities.

This completes our most urgent observations. A few others are added for the record. Appropriate consideration of these by the committee is solicited:

SEC. 102. This might be broadened to include husbanding of irreplaceable natural resources, and fostering regeneration of those that are replaceable, such as reforestation.

SEC. 103. This could be expanded to provide for regional land use planning by cooperation of multi-State planning agencies. Reference to this is made frequently in later sections of the bill.

SEC. 301(b). Three years appears to be too long for the States to get started on the program. The urgency of the problem would justify a shorter period of grace.

SEC. 302(a), par. (6). Impacts of local concern should be included.

SEC. 305(e). The heads of Bureaus within the Department of the Interior should be consulted also. Their personnel are well qualified to comment on land use planning programs.

SEC. 402. It is suggested that the protection of Federal lands provided for here be set forth also in section 302. Five years is too long a wait to determine whether such protection has been in effect.

Senator FANNIN. Thank you, Mr. Coshland.

I agree with you in many respects, especially our exportation of timber and the importation of many products. A few of them are tied in with the lumber industry in dollar volume.

Our big problem is to revise the trading program that we have with the other nations of the world. We are giving them every break, these companies in Japan and other nations importing on a 3-percent tariff basis, for instance, where they charge us up to 50 or 60 percent to get our products from their countries.

So we have this problem.

I am concerned about what you said with respect to the subsidizing of excess crops and the existing energy resources. I agree that we do have a great problem as far as energy is concerned and I also know there are many problems, too, with growing cotton in Gulf States and you say rainfall is abundant, but unfortunately they do not have the yield we have here.

We are not growing this Arizona product to promote cotton production, I assure you that.

Now, the broad technique for promoting solar energy is already developed. If that is true, I have been very much misled. I have been studying this for years. I have gone to the universities that have been experimenting with it. We have had work here at the University of Arizona. I worked with Dr. Sandler and others who have worked on it and if we have the solution certainly it is not known to the United States.

Mr. COSHLAND. I am afraid the line of communications and the extent of publicity has not been the best. Dr. Minel's concept has reached the point of the construction of a credibility model which is now—have you had an opportunity to see that?

Senator FANNIN. Well, no, but we have had reports on his work and it is certainly very progressive, but it is far from being a proven concept as far as I know. As far as I know, commercially, we have not been able to accomplish any objectives that would be indicated by your statement.

I wish you were right. We also have geothermal steam and that well has been drilled near Chandler, Ariz., and it looks encouraging

but that is about it. But we are producing so little power, even by nuclear power, you understand nuclear is producing only about 1 percent of the electricity being utilized throughout the United States.

We are still dependent on other sources, primarily on petroleum products.

Mr. COSHLAND. I had the opportunity to speak with Dr. Minel just a few days ago, and I understand the problem is the grant funds he received and the contributions from four publicly owned utilities for the building of the credibility model left him short of the opportunity to gather sufficient statistical data to prove the economic feasibility. He did prove that the desired temperature for steam could be produced in this manner but as to the gathering of statistics, he needs more funds to be provided and at the moment he doesn't know where they are coming from.

Senator FANNIN. I appreciate your testimony and if we have any indication that he has reached that point, I am sure his funds will be forthcoming. That will be the least of his worries but we don't have that information at the present time. But I very much appreciate your bringing that and your thoughts to our attention.

Would you like to comment on your position as far as the Indian lands are concerned, in bringing them under this legislation?

Mr. COSHLAND. I don't see how any regional lands, speaking in terms of interstate and multistate agency planning, how it can be affected without bringing in the Indian lands input. They are a very important segment, particularly as we look at the four corners area.

Senator FANNIN. Thank you.

At this time we have had the request for a statement to be made part of the record from Margot Garcia of Tucson.

#### STATEMENT OF MARGOT GARCIA, TUCSON, ARIZ.

I believe our long range goal should be to preserve the unique character of each area in the United States and here in Tucson we are concerned about the special qualities of Arizona and our area, the Sonoran Desert. To this end I think we need to reorient our thinking of economic factors.

We have on this earth unique features that man cannot make or at least would be very expensive to make. I am thinking of such things as the Grand Canyon, the Rocky Mountains, the San Francisco Bay, the giant sahuaro cactus, the red tipped ocotillo and our dry warm air and clear starry nights. All of these things man can obliterate without too much trouble. But I think these unique features are in this generation's custodianship to pass undiminished on to our children, and their children and on.

I want to speak to the concept of land planning in general, ecological land planning based on factors of water, soil, air, climate, topography, and many more factors that the expert knows to take into account. I think that states can do this given funds and impetus to get started. They must be monitored by the federal government to see that the plan is well done. The federal government has a large and important role to play in protecting unique areas for all the citizens, not just those in the state in which the area is to be found; for the Grand Canyon and the Sonoran Desert do not belong to Arizona alone. They belong to all citizens of the United States, and in fact to all the world. The federal government can play a role in the dissemination of information and experience from other areas on how to get a good land use plan made and keep it from being broken.

In the past, through trial and error, people found a way to live with and use the land in each area. Common sense said that if you build too close to the river, you will be flooded out. In the rush for money, this sense seems to have left us. Now we need to be reminded by zoning laws about flood plains. Let us extend these concepts to save good agricultural areas, beautiful recreation areas etc. The shift

from a diverse, well endowed environment to a sterile landscape requires only a bulldozer, too many feet, or a myriad of other acts. Above all we need to plan to retain the uniqueness of each area, make that the highest economic good and work there for ecologically based land planning for all areas of the United States.

Senator FANNIN. We have had one from the Tucson Women's Club that will be made a part of the record.

[The statement follows:]

WHEREAS, The Constitution of the United States guarantees the right to amend the Constitution ( Article 5); and  
 WHEREAS, The Amendments 1 thru 10, eight of which are known as the "Bill of Rights", have been in force since Dec. 15, 1791; and  
 WHEREAS, The Fifth (5th) Amendment states in part that "no person be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation; and  
 WHEREAS, The Amendment Fourteen (14) states the same words as restrictions on the power of the States--giving added guarantee that a person's life, liberty and property are not subject to the uncontrolled power of the Government; therefore  
 RESOLVED, That the General Federation of Women's Clubs urges the President of the United States, the Governing Bodies of the Federal Government and the States to stop taking or acquiring citizen's land and or property or causing them to lose land or property for public use without just compensation; and  
 RESOLVED, that the Federal and State Governments publish and make known to the citizens these three (3) requirements:  
 1. The Policy or Procedure by which it is governed in taking or acquiring the land or property or causing the loss of land or property.  
 2. A Justification Statement  
 3. An Environmental Impact Study.

and  
 RESOLVED, That the Constitution of the United States was meant to protect people against arbitrary and capricious acts of government; therefore  
 RESOLVED, That the General Federation of Women's Clubs asks the President of the United States, The Congress, the Departments and Committees of the Federal Government and the State Governments to consider the Constitution of the United States as the binding legal Instrument of our Government and that if and when the Government finds it necessary for the General Welfare of the Country to take or acquire land or property or cause the loss of land or property; that the Government, Federal or State, follow the three (3) Requirements above and, as Guaranteed in the Fifth (5th) Amendment, give just compensation.

This Resolution was passed by the Board of Directors of the Tucson Woman's Club December 18th, 1973  
 signed *Theresa J. Brubaker (Mrs. John W.)*  
 President

This Resolution was passed by the Membership of the Tucson Woman's Club at the Regular Monthly Meeting January 8, 1973  
*Mildred E. Bayham (Mrs. Charles)* *Theresa J. Brubaker (Mrs. John W.)*  
 President Southern District President

*Approved by Southern District, Arizona Federation of Women's Clubs  
 without miss steps in writing  
 & Helen A. Brown, Recording Secretary, 1973 April 11, 73*

Senator FANNIN. We also have a statement from R. E. Lubojacky. That will be made a part of the record.

[The statement follows.]

STATEMENT OF R. E. LUBOJACKY, CHAIRMAN, GREENLEE COUNTY REPUBLICAN COMMITTEE, MORENCI, ARIZ.

DEAR SENATOR FANNIN: Pursuant to your letter of March 23, 1973, relative to the Senate Interior Committee Hearings in Phoenix and Tucson on April 2 and 3, in the interest of saving whatever precious time will be available to you and the committee and in the interest of preventing time consuming discussions or debates which so often arise, please accept this letter as whatever comments I may have.

While Land Use Planning legislation may or may not be a noble cause, great consideration should be given to, and emphasis should be placed upon a systematic and *economic* development of our lands and resources, and the environmental impact, while important also, should and must be strictly a secondary consideration since a true systematic and economically planned development will by necessity and by its very nature go a very long way toward environmental improvement. Other consideration should also be given to ordinary human intelligence and to the question of whether or not it is the desire of the majority of our population to be dictated to by a small group of so-called bureaucrats who so often are miseducated and who wind up in vocations which are totally foreign to either their ability to cope with or to their educational background.

There are far too many varied situations and circumstances which arise in a nation as vast as ours to allow for the enactment of legislation any less complex or cumbersome than the infamous O.S.H.A. and anything comprehensive that could be enacted in relation to Land Use Planning certainly could raise more controversy than any law we have known thus far.

In recent years we have heard from such a number of individuals, groups, and organizations that it becomes virtually impossible to even give them honorable mention at this point.

These groups have expressed concern and have attempted to spread alarm over a varied group of subjects ranging from the preservation of predators, through the curtailment of development of agricultural facilities, the abolition of industry and all the way to curing an overpopulation problem with the destruction of human life.

When one views the many efforts undertaken by these groups and the many directions in which these efforts are directed, a comedy is revealed which could hardly be improved upon by the pen of the best comedy writer on the face of the earth. This appears to be brought about by the total lack of considering more than one side of an issue by any one of these varied groups and often times there appears to be a total lack of serious constructive consideration of either side of an issue. Yet, through lobbying, through the expenditure of vast sums of money and through the exertion of other pressures, many of these groups have managed to have legislation passed favoring a particular view which many times is detrimental to the majority simply because of the apparent lack of interest by that majority.

In viewing the subject of Land Use Planning one must first consider what the expected population of our land will be in future years and how this population will be fed, sheltered, and what they will be expected to do for a gainful livelihood rather than which parcel of land will be preserved for its scenic beauty, its desolate appearance, what predator should be saved for our grandchildren to see and what welfare program will support that population. Consideration must be given to quantity and quality of food that will be required and where and how this food will be produced. Further consideration must be given to the vast quantity of raw materials, mineral and otherwise, that will be required to clothe, shelter, and to transport this future population without the necessity of importing these raw materials and foodstuff in excessive quantities and thereby imposing additional burdens on an economy that even now is struggling under its own overburden. Some of the relatively recent environmental legislation has thus far had a multifold impact on the population, on industry, and on our economy.

Industry has been somewhat overburdened by the overzealous and excessively speedy approach to many of the environmental problems simply because it is forced into taking action before the technology is fully developed and before the full impact of much of the legislation is known. Often times the legislation is amended or totally changed leaving the efforts and expenditures of industry obsolete and thereby calling for a fresh start and a new approach.

The population as a whole benefits to an extent in that this speedy approach generates additional employment for the enjoyment of the masses, but a detrimental aspect is also introduced in that the wheel-spinning and the many new starts to and fresh approaches tend to remove any semblance of pride and initiative in their work that the crafts may have, thereby reducing them to a mass of "Don't Give A Damns".

The impact on the economy has been at least twofold since the additional employment generates tax revenues and buying and spending power as a whole but the readily available employment to those who really desire employment is a signal to organized labor and labor organizers to demand increased compensation and benefits for this employment thereby adding to the burdens of our economy through inflation.

On the local State level in Arizona some of the environmental legislation is beginning to have an impact that could have a beneficial aspect pertaining to Land Use Planning and Land Development *if the proper consideration is given.*

At such time that the many copper producers and copper smelters come into conformity with existing clean air laws which prohibit the discharge of sulfur dioxide to the atmosphere, the production of sulfuric acid will have reached a point of some 12,760 tons per day or 4,593 tons per year of which, some 50% or 2,286,800 tons per year are anticipated to be surplus.

In view of the fact that the State of Arizona is blessed with many millions of acres of highly alkaline which presently cannot and does not support any vegetation other than some rather anemic greasewood, this surplus acid can be utilized for the reclamation and rehabilitation of this alkaline land to such a point where it can be brought into full production of agricultural products.

From personal experience and with at least a small amount of verification from the University of Arizona, in order to neutralize the alkalinity in the aforementioned land to a normal root depth of 3 to 4 inches initially and retreating later for a greater depth, acid required for the initial treatment would be in the range of 5.5 tons per acre and the retreatment would range at some 2.75 tons/acre at 2 year intervals for a minimum of 2 retreatment cycles.

If the total surplus acid were to be utilized for this purpose the first eight years could provide for some 1,983,000 acres reclaimed and rehabilitated.

It is felt however, that a program such as this should, by its very nature, become the responsibility of the State Land Commissioner and should be kept completely separate from any legislation.

At this point, judging from similar bills on State levels, Land Use Planning legislation as such appears to have been far more harmful than beneficial where it has already become law, and the passage of even modified versions on either Federal or State levels would merely serve to promote socialism in its worst form and the chances of its success as a solution to problems would be comparable to attempting to legislate love.

Senator FANNIN. Our next witness will be I. G. Pickering of the Kennecott Copper Corp.

Mr. Pickering, we are very pleased to have you with us this afternoon and look forward to hearing your testimony.

#### STATEMENT OF I. G. PICKERING, KENNECOTT COPPER CORP.

Mr. PICKERING. Thank you, Mr. Chairman.

Last year Congress passed the Coastal Zone Management Act of 1972, while a national land use policy passed the Senate and a bill to control surface mining passed the House.

Congress will be involved with these bills again this year. Nearly all this recent land planning activity deals with non-Federal land, but Congress soon will be involved in public land issues as well.

Following the exhaustive and controversial 1970 report of the Public Land Law Review Commission, attempts were made to modernize the laws which govern a third of the Nation's total land area.

Efforts in the last Congress to combine public and private land legislation failed, however, and the outlook now is for the two to be considered separately.

Even though this might be wise legislatively, it is impractical to think that private and public land issues are not related. Both are subject to many of the same economic and social pressures, and their development must be compatible if the Nation is to manage land on a rational basis. There is general recognition that some means of coordinating decisions in these two areas must be found.

The initial piece of land legislation in the Congress this year attempts to achieve such coordination as part of a framework of land use planning at the Federal, State, and local levels. It is called the Land Use Policy and Planning Assistance Act, S. 268, and is virtually identical to a bill which passed the Senate by a 60-18 vote last September. Senate Interior Committee hearings on S. 268 began February 6.

S. 268 is a procedural bill aimed at instilling some order and foresight in the disorganized situation that now exists. It says there should be a national land use policy "which shall incorporate environmental, esthetic, economic, social and other appropriate factors" and which would guide decisions on Federal lands and on Federal programs with land use impact.

The basic responsibility for land use planning would be at appropriate State and local levels, but each State would be encouraged to develop a land use program tailored to its own purposes and conditions. The bill would provide Federal financial and technical assistance to help the States develop the capabilities and procedures required to write these programs. There are also provisions for coordinating State and Federal programs, including plans for areas where Federal and non-Federal land adjoin.

No land problems are resolved by the bill. Specific problems susceptible of Federal solution still would require specific legislative or regulatory action. S. 268 proposes to establish a framework for assuring that all ramifications of any action are considered before a final decision is made. It also would foster development of the professional capabilities and body of knowledge needed for effective State land planning.

The legislation reflects at the Federal level a philosophy of land planning that has been developing among several States active in the field. It involves setting broad guidelines at the top level of Government but leaving the actual land planning decisions to the lowest practical political unit.

Florida is cited as a model of this approach. In that State, a variety of single-purpose programs were pulled together last year by the legislature into an integrated land use program.

A State planning office was established to conduct studies and develop guidelines which protect certain areas, such as beaches and wetlands, and assure that the full impact of local decisions is assessed before they are made. But the actual land planning is done at the county and local level.

In Arizona two measures are now before the legislature—S. 1014 has passed the senate and is now in the house. H.B. 2165 is still in committee.

The philosophy of Federal guidelines combined with State planning and implementation is now new. It was applied to environmental programs under the Clean Air Act of 1970, and it forms the basis of the Coastal Zone Management Act passed last year. But S. 268 is the first general land planning legislation, and it could consolidate and affirm this Federal-State pattern for future land legislation.

The Senate bill has achieved substantial momentum. It drew wide support and passed the Senate by a wide margin in the waning days of the 92d Congress. Its sponsors represent a unique spectrum of support, including the Nixon administration, the Sierra Club, and the National Association of Manufacturers.

President Nixon said in his February 12, 1973, radio address that "antiquated land-use laws, overlapping jurisdictions and outdated institutions are still permitting haphazard development which can spoil both the utility and the beauty of the land. That is why I will urge passage again, this year, of legislation designed to encourage States to establish effective means of controlling land use."

No important opposition has developed thus far. As support has been registered, however, and as evidence of the bill's momentum has increased, recommendations for constructive change also have increased. The American Petroleum Institute, for example, suggested that the bill would be better balanced if economic development and national security needs were added to the list of basic factors to be considered in developing land use policy. It is entirely proper and very timely for mining and other affected industries to add their own concerns.

Nobody challenges the needs for more rational, more comprehensive planning of land use in the United States. Since they work directly with the land, mining executives undoubtedly appreciate this need better than most citizens.

Yet, while applauding the intent of the Senate land planning bill, the mining industry also is acutely aware of the problems of S. 268 could cause if it does not take a balanced approach.

There are advantages to mining in S. 268 as it now stands. Land planning decisions would be upgraded to the level where broad implications, including the need for mineral products, could be considered. The sand and gravel industry, for example, has found itself tightly restricted by the control zoning authorities have over their reserves. Yet, while the decision would rise to the proper level, it would stay within the State where people are in the best position to decide how land should be used.

A well developed land use program could reduce the labyrinth of agencies and authorities a company now must contend with, and it raises the prospect of single licensing for projects involved with development of land. Well prepared guidelines, combined with clear and orderly procedures, also could substantially reduce the risk of legal challenge which can delay land development.

In a balanced consideration of the set use for land in each State, the mining industry undoubtedly would achieve a clear-cut right to mine in areas now recognized as desirable for mineral development.

But S. 268, as it is now drawn, has some serious flaws:

It exhibits a proper and detailed concern with the environment but does so in such a manner as to imply that the environmental considerations are the paramount factors in every land use decision.

It ignores the special nature of mineral resources, the fact that planners must face the problem of having to develop mineral resources where they lie. There are provisions for taking inventory of each State's mineral resources, but there is no recognition that even the most sophisticated exploration techniques now available cannot

guarantee the identification of all mineral reserves within a State's borders. Nor can currently available exploration techniques always establish the extent and quality, and consequently the economic value, of minerals known to be present. Moreover, economic values of minerals change. A mineral resource of low value today may have an enormous value in the future.

The legislation could be greatly improved by specifically recognizing:

1. The philosophy of best use of the land, requiring that economic development have equal priority with environmental protection in order to assure balanced land use planning.
2. The nature of mineral resources, which call for special consideration because they must be developed wherever they are located.
3. The need for flexibility, with mandatory provisions for periodic review to make sure each plan continues to specify the best use of the land. No use should be permanently foreclosed from any land.

Development of its mineral resources is of critical importance to the future economy and security of the United States. It is essential in any land use legislation that full consideration be given to the special conditions of developing mineral resources. It is the responsibility of the industry to point out the problem and suggest how it can be resolved within the scope of a national land use law.

Too often in the past, single purpose land use legislation has been imperfect because legislators failed to consider and accommodate the full range of impact involved.

It would be ironic if the Nation's first general purpose land law were flawed in the same way by failing to deal squarely with the mineral question. It would be doubly ironic if the industry failed to take the constructive action now which would illuminate the problem and help resolve it.

Kennecott has prepared a statement of background and policy on this matter, portions of which I have read into the record.

Thank you.

[The complete statement of Mr. Pickering and material submitted follows:]

Statement of I. G. Pickering to the State Land Use Hearing -- Tucson, April 3, 1973 ---

Last year, Congress passed the Coastal Zone Management Act of 1972, while a national land use policy act passed the Senate and a bill to control surface mining passed the House. Congress will be involved with these bills again this year. Nearly all this recent land planning activity deals with non-federal land, but Congress soon will be involved in public land issues as well. Following the exhaustive and controversial 1970 report of the Public Land Law Review Commission, attempts were made to modernize the laws which govern a third of the nation's total land area. Efforts in the last Congress to combine public and private land legislation failed, however, and the outlook now is for the two to be considered separately.

Even though this might be wise legislatively, it is impractical to think that private and public land issues are not related. Both are subject to many of the same economic and social pressures, and their development must be compatible if the nation is to manage land on a rational basis. There is general recognition that some means of co-ordinating decisions in these two areas must be found.

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#### SHARING LAND AUTHORITY

The legislation reflects at the federal level a philosophy of land planning that has been developing among several states active in the field. It involves setting broad guidelines at the top level of government but leaving the actual land planning decisions to the lowest practical political unit. Florida is cited as a model of this approach. In that state, a variety of single-purpose programs were pulled together last year by the legislature into an integrated land use program. A state planning office was established to conduct studies and develop guidelines which protect certain areas, such as beaches and wetlands, and assure that the full impact of local decisions is assessed before they are made. But the actual land planning is done at the county and local level.

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#### RECOGNIZING THE MINERAL REALITIES

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Senators, Kennecott has prepared a statement of background and policy on this matter, portions of which I have read into the record. I present you now for inclusion in the record, the full text of the statement. Thank you.

# PRESERVING MINING RIGHTS IN LAND PLANNING

## Comment of Kennecott Copper Corporation On Proposed Land Use Legislation

**T**HE body of laws governing use of the nation's land dates back more than 300 years, beginning with the early royal land grants. Over the centuries, the principles which underlie such laws have undergone constant change and revision to reflect changing national objectives.

Now, in a time when our industrialized economy places critical emphasis on full but careful utilization of the land for the maximum benefit of the people, the Congress is devising a sweeping new policy of land planning and management. Once enacted, this policy will have immediate and lasting effect on how and to what degree citizens and industry may use the land.

This paper supports the necessity for developing a national land use policy—but sets out some crucial precautions that must be taken in realistically determining national objectives without causing major damage to the national economy and the vital domestic mining industry.

The nation is entering an era when the problems of land management demand and are beginning to receive more comprehensive, more orderly, and more farsighted treatment. The trend toward order is developing in response to increasing pressures on the land and to a steady escalation in the nature of land problems from local to state and national levels.

Land use problems are extremely complex, and they are fated to increase in complexity under the pressures of a growing population and a growing economy, interlaced with a concern for the quality of American life. The solutions now being advanced require thorough debate and refinement before they are put into action.

For the mineral industries, the trend to orderly land management presents both a welcome advance and a unique problem. Mineral resources must be extracted wherever they exist in nature. Unlike virtually any other use of land, there are no options in locating a mine or well. So while mining executives recognize the virtues of comprehensive planning, they must be sure the architects of new approaches to land management understand the unique nature of mineral resources. The industry must strive to assure that land planning does not foreclose the extraction of minerals wherever it might serve the interest of the nation and its economy.

### **Unplanned Planning**

Land planning and land management are not new to the United States. In a rudimentary sense, they can be traced back to the early North American land grants of European kings, and a variety of land laws have since contributed greatly to the development of the American republic. Such devices as the Homestead Act and massive land grants to railroad companies were obvious instruments for luring people and capital into the sparsely settled west and on to the Pacific coast. The General Mining Law of 1872 and its predecessors shared such a role, as well as stimulating the development of mineral resources.

There has been a steady flow of land laws over the decades, not all of them recognizable as such. Establishment of the national forest and national park systems clearly were land management measures. But many other statutes and regulations were designed for other purposes, with impact on the land both accidental and incidental. Establishment of missile ranges and nuclear test sites are examples.

So are rights of way for electric power transmission and the interstate highway system. Education and welfare, home financing and urban renewal, airport location, and agricultural subsidies—all are measures which profoundly affect the use of land without really focusing on it.

Taxation has a pervasive effect on how land is used and how it shifts from one use to another. Several aspects of the Internal Revenue Code affect the situation, including provisions on real estate and capital gains. Local property taxes have perhaps the most important effect.

Daniel P. Moynihan, then Counsellor to the President, summed up this phenomenon in his introduction to a 1970 White House report on national goals. Discussing the complex relationships of the American social system, he said:

Given the interconnections of things, it follows that there is no significant aspect of national life about which there is not likely to be a rather significant national policy. It may be a hidden policy. No one may know about it; no one may have intended it. But it is a policy withal.

As the needs of the nation have changed, and as society has become more complex, the standards for using land have changed. Where once we labored to cultivate wild land, now we are moving to preserve the remaining wilderness from cultivation. The land remains the same size, but the demands upon it have multiplied until the buffers have disappeared and many of these demands are now in conflict.

### **Conflicts and Pressures**

Conflicts will continue to grow. Even with its rate of growth declining, the U.S. population will be expanding well into the next century. And sheer numbers are only the beginning of the story. Increasing affluence, more leisure time, and longer lives mean individual citizens can multiply their impact on the land well beyond the requirements of sustaining life and health. Discussions during the 172 White House Conference on the Industrial World Ahead illuminated the policy influence on the ordinary citizen. Focusing on the year 1990, it was estimated that the population might grow 20-25%, depending on the persistence of currently low birth rates. In the same period, forecasts indicate the Gross National Product will more than double and disposable income per capita will increase at

least by half for the higher income population and by two-thirds for lower income citizens.

This growth pattern has enormous consequences for industrial use of the land. Between 1970 and 1990, consumption of coal, petroleum, copper, and iron will nearly double. Consumption of lumber and natural gas will more than double. Consumption of electricity will increase nearly 250%.

At the same time, the White House report contains an estimate that between 1960 and 1990, the acreage committed to recreation and conservation purposes will increase 92%. Here lies a fundamental conflict. For as affluent Americans travel more, and as their interest grows in the quality of their environment, they want to preserve in a natural state much of the land required industrially to support their affluence. Along with preserving nature, concern over clean air and water put pressure on the land because of the vast acreage required to treat waste water and to store the waste solids gleaned from industrial processes.

Such conflicts must be resolved, for the American people are not likely to surrender either their comfort or their concern for environmental quality. In some cases, priority uses are prescribed for the land. In other cases, multiple use is possible. The solutions now are beginning to be worked out in a variety of ways. There is a trend away from local zoning toward handling problems through larger political units that marks the second major phase of land planning in the United States.

### **Origins of Organized Planning**

The first phase was launched in the Nineteen-Twenties when the U.S. Department of Commerce, then run by Herbert Hoover, developed model land planning laws. Such laws were gradually adopted by the states, and virtually all authority was delegated to local communities. Present patterns of urban and suburban zoning evolved from application of the model laws.

Now there is a new wave of land planning based on the awareness that local autonomy is not workable when issues have impact beyond the local community. The decisions are rising to whatever higher jurisdiction encompasses the whole problem. Suburban counties are finding they must control development on a county-wide basis, for example, to match local enthusiasm for growth with the

capacities of county utilities and school systems. Communities surrounding San Francisco Bay banded together in a regional organization to curb local landfills which threatened the bay. The New York legislature established a commission for selecting electric power plant sites. The people of California voted last November for strict control of the state's entire 1,072-mile coastline.

Vermont, Hawaii, Colorado, Maine, and Florida have established statewide control over land developments with major impact on their economies and ecologies. About a dozen other state legislatures are considering some form of statewide land planning measure this year. And nearly all the states have adopted some type of control in special areas, such as coastal lands and power plant siting. While planning is becoming more comprehensive at the state level, virtually none of it is coordinated among states, and much of the planning is for single purposes without regard for general impact. The rapid growth in land planning also has put pressure on the small body of trained and experienced people available, and the talent pool already is inadequate for the ever-expanding assignment.

### **Federal Interest High**

Fervor for managing the land has built up on the national level as well. Last year, Congress passed the Coastal Zone Management Act of 1972, while a national land use policy act passed the Senate and a bill to control surface mining passed the House. Congress will be involved with these bills again this year. Nearly all this recent land planning activity deals with non-federal land, but Congress soon will be involved in public land issues as well. Following the exhaustive and controversial 1970 report of the Public Land Law Review Commission, attempts were made to modernize the laws which govern a third of the nation's total land area. Efforts in the last Congress to combine public and private land legislation failed, however, and the outlook now is for the two to be considered separately.

Even though this might be wise legislatively, it is impractical to think that private and public land issues are not related. Both are subject to many of the same economic and social pressures, and their development must be compatible if the nation is to manage land on a rational basis. There is general recognition that some means of coordinating decisions in these two areas must be found.

The initial piece of land legislation in the Congress this year attempts to achieve such coordination as part of a framework of land use planning at the federal, state, and local levels. It is called the Land Use Policy and Planning Assistance Act (S.268) and is virtually identical to a bill which passed the Senate by a 60-18 vote last September. Senate Interior Committee hearings on S.268 began February 6.

S.268 is a procedural bill aimed at instilling some order and foresight in the disorganized situation that now exists. It says there should be a national land use policy "which shall incorporate environmental, esthetic, economic, social and other appropriate factors" and which would guide decisions on federal lands and on federal programs with land use impact. The basic responsibility for land use planning would be at appropriate state and local levels, but each state would be encouraged to develop a land use program tailored to its own purposes and conditions. The bill would provide federal financial and technical assistance to help the states develop the capabilities and procedures required to write these programs. There also are provisions for coordinating state and federal programs, including plans for areas where federal and non-federal land adjoin.

No land problems are resolved by the bill. Specific problems susceptible of federal solution still would require specific legislative or regulatory action. S.268 proposes to establish a framework for assuring that all ramifications of any action are considered before a final decision is made. It also would foster development of the professional capabilities and body of knowledge needed for effective state land planning.

### **Sharing Land Authority**

The legislation reflects at the federal level a philosophy of land planning that has been developing among several states active in the field. It involves setting broad guidelines at the top level of government but leaving the actual land planning decisions to the lowest practical political unit. Florida is cited as a model of this approach. In that state, a variety of single-purpose programs were pulled together last year by the legislature into an integrated land use program. A state planning office was established to conduct studies and develop guidelines which protect certain areas, such as beaches and wetlands, and assure that the full impact of local decisions is assessed before they are made. But the actual land planning is done at the county and local level.

The philosophy of federal guidelines combined with state planning and implementation is not new. It was applied to environmental programs under the Clean Air Act of 1970, and it forms the basis of the Coastal Zone Management Act passed last year. But S.268 is the first general land planning legislation, and it could consolidate and affirm this federal-state pattern for future land legislation.

The Senate bill has achieved substantial momentum. It drew wide support and passed the Senate by a wide margin in the waning days of the 92nd Congress. Its sponsors represent a unique spectrum of support, including the Nixon Administration, the Sierra Club, and the National Association of Manufacturers. President Nixon said in his February 12, 1973 radio address that "antiquated land-use laws, overlapping jurisdictions and outdated institutions are still permitting haphazard development which can spoil both the utility and the beauty of the land. That is why I will urge passage again, this year, of legislation designed to encourage states to establish effective means of controlling land use."

No important opposition has developed thus far. As support has been registered, however, and as evidence of the bill's momentum has increased, recommendations for constructive change also have increased. The American Petroleum Institute, for example, suggested that the bill would be better balanced if economic development and national security needs were added to the list of basic factors to be considered in developing land use policy. It is entirely proper and very timely for mining and other affected industries to add their own concerns.

### **Recognizing the Mineral Realities**

Nobody challenges the needs for more rational, more comprehensive planning of land use in the United States. Since they work directly with the land, mining executives undoubtedly appreciate this need better than most citizens. Yet, while applauding the intent of the Senate land planning bill, the mining industry also is acutely aware of the problems S.268 could cause if it does not take a balanced approach.

There are advantages to mining in S.268 as it now stands. Land planning decisions would be upgraded to the level where broad implications, including the need for mineral products, could be considered. The sand and gravel industry, for example, has found itself

tightly restricted by the control zoning authorities have over their reserves. Yet, while the decision would rise to the proper level, it would stay within the state where people are in the best position to decide how land should be used.

A well-developed land use program could reduce the labyrinth of agencies and authorities a company now must contend with, and it raises the prospect of single licensing for projects involved with development of land. Well-prepared guidelines, combined with clear and orderly procedures, also could substantially reduce the risk of legal challenge which can delay land development.

In a balanced consideration of the best use for land in each state, the mining industry undoubtedly would achieve a clear-cut right to mine in areas now recognized as desirable for mineral development.

But S.268, as it is now drawn, has some serious flaws:

— It exhibits a proper and detailed concern with the environment but does so in such a manner as to imply that environmental considerations are the paramount factors in every land use decision.

— It ignores the special nature of mineral resources, the fact that planners must face the problem of having to develop mineral resources where they lie. There are provisions for taking inventory of each state's mineral resources, but there is no recognition that even the most sophisticated exploration techniques now available cannot guarantee the identification of all the mineral reserves within a state's borders. Nor can currently available exploration techniques always establish the extent and quality, and consequently the economic value, of minerals known to be present. Moreover, economic values of minerals change. A mineral resource of low value today may have an enormous value in the future.

The legislation could be greatly improved by specifically recognizing:

1. The philosophy of best use of the land, requiring that economic development have equal priority with environmental protection in order to assure balanced land use planning.
2. The nature of mineral resources, which call for special consideration because they must be developed wherever they are located.

3. The need for flexibility, with mandatory provisions for periodic review to make sure each plan continues to specify the best use of the land. No use should be permanently foreclosed from any land.

Development of its mineral resources is of critical importance to the future economy and security of the United States. It is essential in any land use legislation that full consideration be given to the special conditions of developing mineral resources. It is the responsibility of the industry to point out the problem and suggest how it can be resolved within the scope of a national land use law.

Too often in the past, single-purpose land use legislation has been imperfect because legislators failed to consider and accommodate the full range of impact involved. It would be ironic if the nation's first general purpose land law were flawed in the same way by failing to deal squarely with the mineral question. It would be doubly ironic if the industry failed to take the constructive action now which could illuminate the problem and help resolve it.

Senator FANNIN. Mr. Pickering, let me assure you it is not our intention to foreclose the extraction of minerals by land use legislation.

Just to give you a few thoughts, I feel legislation must present a balance to land use decisionmaking. Environmental protection is vital but cannot be utilized solely to prevent land use development.

Federal policy must be utilized to encourage decisionmaking which provides a balance between competing values and that favors no particular institution. It is our desire to have legislation that will be fair and equitable and will protect the environment.

I think that can be done. We realize we have the very difficult task ahead and we appreciate your coming down.

Mr. PICKERING. Thank you.

Senator FANNIN. The next witness will be Mr. Frank Appleton of the Research Ranch.

#### STATEMENT OF FRANK APPLETON, RESEARCH RANCH

Mr. APPLETON. Thank you, sir.

Senator Fannin, members of the staff, ladies and gentlemen. I live in Elgin, Santa Cruz County, Ariz.

A few years ago my family and I founded the Research Ranch to create an open space, natural area, outdoor laboratory of 8,000 acres permanently dedicated to education, conservation, and research.

To our knowledge, this is the first such use of land in the United States to involve the three ownerships of Federal, State, and private lands. I mention this to place before you my admitted prejudice in favor of serious consideration of nondisruptive, nonconsumptive uses of land than to identify myself with the Research Ranch, since my remarks here are made strictly as a private citizen.

The whole subject of land use is relatively new to political action, and its definitions are difficult, complex and yet vital if we are to maintain and achieve any sort of quality environment—surely one of today's half-dozen most important problems.

Since land use determination is such a new field, may I suggest that, as we consider the proposed national law, Senate bill 268, and as State legislators around the Nation wrestle with their versions, let us legislate caution so that if we are not sure just what to do with certain land, perhaps we should do little either with it or to it, until our knowledge of man's balance with nature is more complete.

If we err on the conservative side, treating land as a finite natural resource, noting that man has tended to over use the free, public resources, and always realizing that proper use of land concerns itself less with State boundaries and more with natural regions, such as the Rockies, the arid Southwest, or the valley of the Mississippi River.

So, I would like to speak of just three aspects of this huge question.

First, land use legislation and its principles of execution must be guided more by commonsense than by tradition. An example of this might be the city of Bath, England. My wife and I made our first trip to England 2 years ago together. This ancient city, where a large community probably 2,000 years old used its land with loving care. Where in general the roadways are located on the easily drained places, the people are housed and working on the slopes, and the rich bottom land of the farms, meadows, and marshes still offer to this day lovely vistas uninterrupted by so-called improvements.

For an Arizona example, we should mention that we would probably not be here today had it not been for the courage and persistence of the pioneers, and that the traditional three C's of cattle, copper, and cotton have done well by us in the past. But certainly a majority of the Southwesterners of today and tomorrow are concerned less with these traditions and more with a new set of three C's; namely, climate, community, and the commons, the old term for public resources.

Second, may I suggest that land use is not an individual right, but instead a kind of transcendental prerogative that none of us, individually or collectively, should be allowed to do, almost as we wish, with a piece merely because we "own" it in a legal sense.

The beautiful truth is that we are living caretakers of the land, vested with the responsibility of stewardship for the benefit of untold future generations; and that, as some wise person said, "The land does not belong to us; rather, we belong to the land."

Finally, a respectful word to our lawmakers, National and State. Many people have often stated that no legislation is better than imperfect legislation.

In other words, if you can't get a law that is just perfect, don't think to pass one. But I have been thinking about this and I feel this time that may not be so.

Our States need a national guideline; so, even if this bill has its critics, please let us pass a basic land use law right now.

We must make a beginning. Where would we be if our Founding Fathers had waited to draft a perfect Constitution?

Thank you very much for your time.

[The article submitted by Mr. Appleton follows:]

Reprinted from the  
ARIZONA ACADEMY OF SCIENCE  
Vol. 7, No. 3—October 1972

## SACRED COWS AND OTHER ENDANGERED SPECIES

FRANK APPLETON

ELGIN

In a pioneering frontier society, such as the United States has enjoyed and exploited for two centuries, institutions have a way of being vital and prominent in growth and expansion, yet often conveniently lost in the shuffle of progress. Sacred cows appear, breed and graze inconspicuously with the herd until the frontier disappears and then they are readily identified in the light of a finite world. One of the lushest pastures for these remarkable, prodigal creatures is the university, the state university, the land-grant college; and one of the hungriest of these quixotic quadrupeds is the average college of agriculture. With attitudes ranging from nurture to tolerance, government agencies and agribusiness serve as willing partners. India has nothing on us.

A British educator once remarked that "Science is far too important to be left solely to the scientists," so it probably is that Agriculture is far too important to be left solely to the agriculturalists. Moreover, the traditional 3 C's of Arizona (Cattle, Cotton, and Copper) are inexorably being superseded by a new set of 3 C's, namely Climate, Community, and the Commons, a term describing all public resources.

What does this mean for the land-grant colleges? Stanford's President Lyman states the need for academic *interdiscipline*, imaginative reform, and perspective based on logic and reason instead of habit and custom. It signals the decline of the super-specialist and the rise of the gifted amateur who can listen in particular terms and learn in general terms, and incidentally write a simple declarative sentence in his native language. The areas served by the land-grant colleges, not too long ago being settled by pioneers, are now being occupied by people, and the colleges must now serve those people, not the large interests which took over from the pioneers. If these colleges continue to cater to agribusiness, which uses 80% of the water and comprises 20% of the economy, continue to tolerate an obsolete law which gives the mining industry *carte blanche* on the public lands, and continue to give false (and expensive) encouragement to cattlemen, then one of these days state legislatures are going to give them the incisive scrutiny normally associated with Nader's Raiders.

Addressing themselves and their grantees to pro-

duction agronomy, repetitive research and thesis esoterica, they seem oblivious to *their* need to practice economics and the *world's* need for a common sense approach to the use of resources. How about a little negative research and a little positive thinking? Several institutions are simultaneously studying the diet of mink, one with a contract lasting through 1999. Another distributes poisons like green stamps and has yet to consult their colleagues in biology. To be sure, there are bad examples around the campus, when university scientists insist on doing only what *can* be done, and engineering professors don't understand the OEO lawyer when he describes the SST as "From Watts to Harlem in Two Hours."

Interaction and interdependence make interdiscipline a vital part of the academic scene, and colleges of agriculture should try not to be the last campus department to join the world. This world is no longer a donec's market. The wise administrator or dean will be the one who shapes his budget to utility and reality rather than tradition and ambition. He will recognize the occasional failure of a project or a decline in departmental needs, and he will meet his legislators half way. He will supervise progress not mill ponds; he will build ideas not empires; he will seek innovative status not regressive status quo. Finally, he will refute Yale's Kingman Brewster, who recently referred to universities as paradoxical combinations of feudalism and trade unions, riddled with tenure and custom, whose administrators never do the new at the expense of the old, but always in addition to the old, particularly if it's experimental.

Passive resistance to change, on or off campus, is merely obstructive, but active resistance to change, once visible to intelligent authority, is, like a fire sale, a good way to go out of business. Don't ever underestimate Professor Baxter's Luncheon Law which postulates that when five or more persons are having lunch together and on one check, each person will inevitably and in turn order one of the most expensive items on the menu. The outstanding example of a Baxter Luncheon Club is probably the Army Procurement Office—but some state universities aren't far behind. Yes, Virginia, participation in change *is* constructive, but I'm sorry there is no free lunch.

Senator FANNIN. Thank you very much, Mr. Appleton.

I know of the extent of your endeavors in this field, and you are certainly to be commended for your great interest in being willing to not only have a principle in relationship to protecting the environment, but willing, to the extent of your resources, to devote to carrying through with what you feel is necessary to help attain the high goal you have set. We are very pleased to have you here with us today.

Mr. APPLETON. Thank you so much.

Senator FANNIN. Thank you.

Do we have any other witnesses here today?

[No response.]

Senator FANNIN. If not, this concludes our Senate field hearings on land use legislation, and let me say how proud I am at being able to elicit the suggestions of the citizens of Arizona, since these are the last hearings we will have before the markup begins.

I know how helpful it has been to get local input. We have gotten fresh ideas that are vital to the discussion on this subject.

The impact of this legislation will be felt here in our cities and towns, and your voice at this stage of our deliberations has been most helpful.

Practically every segment of our society has participated. To the extent there was someone here from the State level, the Governor, other State officials, the mayors of several cities, county officials, conservation and environmental groups, and industry representatives. So we have had a very good cross section. We have had testimony from one of our Indian leaders, the chairman of one of the tribes supporting the legislation, and we are very appreciative of his support and expression of great interest in this legislation.

We expect other Indian leaders will be heard from later; but, of course, the markup session does start at once, so, if any of you do have further testimony that you would like for us to consider, it should be mailed to us immediately.

We do have a memorandum from Mr. Gordon Luepke, architect, which will be made a part of the record.

[The memorandum follows:]

TUCSON, ARIZ., April 3, 1973.

MEMORANDUM TO SENATOR PAUL FANNIN

I am in favor of public land use legislation at the federal level because this appears to be the only way of funding a comprehensive program for

(a) Selection and reserving, on a scheduled time basis, various types of natural land and water areas within the United States, its possessions, and any related adjacent foreign territory, for the express purpose of

(b) Securing a comprehensive inventory and record of all geological and biological features, including the exploration, physical sampling and analysis necessary to establish a base upon which ecological studies can be applied to land use regulations.

Some reasons for immediate action on this matter are

(a) Most existing studies are merely recapitulations of collections of work previously published, most of them admittedly deficient in the amount and quality of the empirical evidence used and oriented to feasibility considerations of preconceived land uses.

(b) While the hour is late, and native areas are rapidly diminishing, there is still time for much valuable work to be accomplished in areas slightly converted from their natural state.

(c) The present situation in which research is often being attempted in a desperation effort to forestall development, is not effective because under such conditions much of the expertise required is captive.

(d) This proposal calls for a massive effort to gather factual information *while it is still obtainable*. The information is not being sought for purposes of impeding development, but rather for its immeasurable value to those who will soon be deeply involved in providing a technology for rehabilitation of already seriously damaged environments.

GORDON M. LUEPKE, *Architect.*

Senator FANNIN. I again want to express my appreciation to all of you, to Mayor Murphy and the city council, for the assistance we have received here, and their kindness for allowing us to use these beautiful facilities.

The hearings are adjourned, and again I express my thanks to you all.

[Whereupon, at 3:20 p.m., the hearings were adjourned.]

## APPENDIX

(Under authority previously granted, the following statements and communications were ordered printed:)

STATEMENT OF ROBERT DURRENBERGER, PROFESSOR OF

GEOGRAPHY, ARIZONA STATE UNIVERSITY

April 2, 1973

Mr. Chairman, members of the committee, ladies and gentlemen. My name is Robert Durrenberger and I am a professor of geography at Arizona State University. I am here speaking as an individual who has observed and studied the transformation of the natural landscape of the American Southwest. For most of my academic career I lived in Southern California and saw one of the earth's most attractive agricultural areas transformed into one of the largest urban agglomerations on earth.

For the past two years I have been a citizen of Arizona observing some of the same processes operating here to transform the Salt River Valley into another large metropolitan complex with ribbons of asphalt and concrete connecting high-rise office buildings of the central city to the sub-divisions that sprawl across the countryside eating away at valuable agricultural lands. And as the city spreads, existing problems are aggravated and new ones created.

I am speaking to the need for planning on a national and regional scale; for the problems that affect the citizens of Tempe or Scottsdale or Phoenix are not unique to them alone. City, county, and state boundaries do not deflect flood waters nor polluted air. The trash generated by citizens of one political jurisdiction generally ends up in another. Traffic jams are not just confined to the Tempe Bridge. And, people seeking recreational outlets do not ordinarily find them at home. The places to which they go bear the impact of their activities.

Today there are no Shangri Las where people can enjoy life untouched by what goes on about them. This is the age of regional cities all of which are connected to each other and all of which have impacts on each other. Planning for tomorrow needs to take this into account.

In the American Southwest projections of urban growth in the years ahead carry frightening implications for the people now living here. Now, most of you can visualize the effects of all this growth on your own communities. Redevelopment and high-rise construction will occur in the central city while apartments will replace single-family residences at near-in locations. More housing tracts and satellite communities will displace citrus groves and natural desert landscapes around the fringes of the community. You are all also aware of the negative impacts generated by higher population densities and expansion of the urbanized area. But, most of us tend to forget the effects that large numbers of people are having on the non-urban lands of America. The "week-end city" composed of campers and second-home owners represents another area suffering from environmental disruptions and other problems.

And so, many of us have been asking: Is unplanned, uncoordinated growth the only way to go? We all recognize that additional growth is inevitable, but again we ask: At what rate and in what manner shall we grow? We need to have the collective wisdom of our scientists, our politicians, and all of our citizens put to work to achieve a better country in which to live.

STATEMENT to Senator Paul Fannin  
Senate Interior Committee Hearing - Land Use  
Tucson City Council Chamber - April 3, 1973

My name is Joseph Zashin. I am Vice President of the Arizona Consumers Council. I do not appear officially, however, as our Board has not had the opportunity to study and discuss your bill S 268.

Consumers do have a concern for an enlightened use of land, recognizing that land has an impact on every phase of human life. Indeed, it has been said: "Land can be a beneficent Mother Earth for all her children, or an instrument for distortion and inequity."

May I add my welcome to your committee, Senator Fannin, for coming to this community for this hearing. When I came to Arizona in 1959, you were then Governor of this State. I had spent some 35 years in the lumber industry, in construction and realty investment in the New York-Long Island area in what was perhaps one of the greatest periods of land boom and growth in this nation. From long time, day by day experience, particularly after World War II, I had observed at first hand, unplanned growth, land speculation, sprawl and the unfortunate consequences therefrom.

Hence, when I came to Arizona in 1959, originally to Scottsdale and Phoenix, I was troubled to see in this booming community, the same beginnings of unwise land use, speculation and sprawl. You may not recall, but I addressed some correspondence to you, along with a rather whimsical poem on the subject. I am attaching a copy of this poem.

Now, as to bill S 268. There must be general agreement with the intent of this bill for a "Land Use Policy and for Planning Assistance."

However, the bill, by its very nature, has weaknesses as much as strengths. It is an omnibus bill, covering an exceedingly wide range of objectives. It flies in the face of the age-old admonition that "a long journey begins with a single step." To this end, bill S 268 has an excellent start with its Section 202, clauses (a) (b) (c) 1,2,3,4,5 (d) (e).

Section 202 is an excellent beginning which should encounter little opposition. It may be easily implemented, to collect the mass of data bearing on Land Use. Much of this data is now available in Federal, State and local agencies. It requires mainly to be collected, collated and classified - to become a kind of national inventory record. One year might suffice for such a program, done within one Dept - the Interior. As it would be primarily data gathering, with little policy implications, it would not require the interaction of all the parties specified in Sec 203 at this time, minimizing bureaucratic encumbrance.

Following the amassing of this data, a second step would be a Board to review it. To divide it into broad categories - data of a regional impact, data within a state and data within local city or county boundaries. It would likewise be divided into categories of ownership - Federal, State, local and private.

2.

To this point, you will note, there has been no need for a new agency, nor any need for grants of funds to State or local jurisdictions. This conforms with current Administration attitudes, widely shared, to lessen the growth of governmental agencies for streamlined efficiency, and to reduce Federal outlays.

I wish to limit my remarks then to this proposal for a much abbreviated S 268. I would add this observation on Land Use Planning. The term has a kind of general acceptance in the public mind like "motherhood" and "apple pie". Indeed, the tendency toward such planning has led to so much proliferation of planners over the past decade that even they are concerned. They multiply and duplicate each other. The overlapping and conflicts negates and retards much substantial good effort. Pima County is a typical example. Good men, good ideas and yet they have not checked the present unhappy sprawl, the unwise and unesthetic despoilment of precious natural terrain. Land costs have multiplied due to speculation with an added grievous burden on growth, and pollution of the total environment goes on ~~xxxxxx~~ apace.

Why does planning fail? What is undermining the efforts of the planners? We can take note of the words of a great American naturalist, Henry David Thoreau. Said Thoreau - "for each man seeking to find the root causes of a problem, there are a thousand men hacking at its branches." How much of our energies and resources have been expended on hacking at the branches? Perhaps, when we have a completed inventory record before us - available to States and local areas - we will more clearly see the direction in which to proceed, so that we can zero in on root causes. Time enough then to consider grants and assistance by the Federal government, to what extent, and how to be administered and coordinated.

As a concluding remark, I would suggest that we may discover that an examination of Land Taxation, presently in a most chaotic state, of which there is no mention in S 268, may prove to be one of the most vital directions for an enlightened Land Use Policy.

Thank you.

Joseph Zashin  
3416 Calle Poco  
Tucson, Arizona 85715

## Arizona - Land of Sunshine

Into Arizona the tide flows -  
 Each year, the number greater grows  
 Of seekers of its sunshine - so health-giving,  
 Of new opportunities for earning a living.

What is so wonderful, what so rare  
 As Arizona's humidity free air;  
 Warmth that drives out arthritic pain  
 And makes sluggish lungs function again.

Scenic wonders the eye to delight -  
 The star-lit clearness of the desert night -  
 Mountains - mesas - awesome chasm  
 A breathtaking variety - Arizona has them.

The three essentials for life are there  
 In God's abundance - land, sunshine and air.  
 Sunshine and air for all men are free,  
 But land - it becomes a mad agony.

Speculation - swift and ever more intense  
 Raises up a fever that doesn't make sense.  
 The Psalmist's words - "The earth is the Lord's"  
 Becomes a frenzied mockery by realtor hordes.

Up the prices as they scramble for acres -  
 Hundreds - thousands - until the takers  
 Exact so heavy a toll of whatever is spent  
 In the pyramiding charges one pays out in rent.

The enterprising builder finds in dismay  
 That rising land costs take his profits away.  
 He'd have earned so much more if he sat and waited  
 And not troubled to build - just inflated.

The merchant seeking to rent a shop  
 Has to pause and wonder - can he come out on top.  
 Apartment rents keep spiralling  
 Higher land costs push up everything.

Why must this beautiful land, by God given,  
 Become a burden on all when speculator driven?  
 Should not the State act in the people's cause  
 And end this insatiable greed with just laws?

-- Joseph Zashin



## ARIZONA MINING ASSOCIATION

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President

EDWARD H. PEPLow, JR.  
Executive Secretary

April 6, 1973

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W. J. RUNDLE

The Honorable Paul J. Fannin  
U. S. Senator  
Senate Office Bldg.  
Room 140  
Washington, D. C. 20510

Dear Senator Fannin:

In behalf of the Arizona Mining Association, I wish to express our deepest appreciation to you, Senator Haskell and your staff for holding the hearings in Arizona this week on S.268, a proposed LAND USE POLICY AND PLANNING ASSISTANCE ACT OF 1973, and for the courtesy and interest which you extended in receiving the Association's comments on this legislation.

At the conclusion of my statement, Senator Haskell requested me to submit revisions to this bill which would alleviate the concerns which I expressed with respect to certain provisions of the bill and to the inapplicability of such legislation to mining activities. Accordingly, the following are our recommended changes, references being to S.268 introduced on January 9, 1973:

1. On page 18, line 15, delete "mineral development,".
2. On page 48, in line 6, following the word "private", add the words "urban or suburban".
3. On page 55, at the end of the bill, add the following new subparagraph:

"(g) to apply to the exploration, development, mining or other production of minerals."

These suggested amendments are frankly intended to exempt mining from this land planning legislation. We can anticipate that this will be taken by some merely as an attempt by the mining industry to avoid its responsibility to play its part in land planning. Please understand that this is not our purpose. As I stated in my testimony, land use planning is simply not applicable to

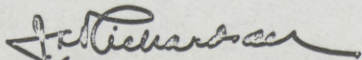
The Honorable Paul J. Fannin  
April 6, 1973  
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determine, restrict or prohibit the use of land resources, the existence and value of which are unknown and cannot be determined without expensive and lengthy exploration conducted by individuals and companies using highly sophisticated equipment and methods.

After listening to the arguments for applying land use planning to these mining activities, I have come to the conclusion that those proponents, although sincere in their belief, make these arguments with reference to industrial development generally. Because it is thought that the location of factories, power generating plants and other industrial facilities are properly the subject of land use planning, then all of the mining industry should also be covered. While refineries and other similar facilities of the minerals industries may fit into this category, there can be no justification for applying land use planning to the exploration, development and production phases of our industry. Those activities, we can be sure, are being and will further be regulated by laws which take into account the unique characteristics of mineral resources and mining activities, such as those controlling air and water quality, and zoning laws.

Thank you again for considering our reviews and recommendations. A copy of this letter is being sent to each member of the Senate Committee on Interior and Insular Affairs.

Respectfully yours,



J. K. Richardson

JKR:ls

cc: Senate Committee on Interior & Insular Affairs

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