University of Nebraska - Lincoln
DigitalCommons@University of Nebraska - Lincoln

8th Triennial National Wildlife & Fisheries Extension Specialists Conference (1996)

Extension Wildlife & Fisheries Specialists Conferences

6-1-1996

A TAX INCENTIVE TO ENCOURAGE WILDLIFE MANAGEMENT: THE TEXAS EXAMPLE

Charles W. Ramsey
Texas A & M University, 714 Meadow Lane, Bryan, TX

Follow this and additional works at: http://digitalcommons.unl.edu/ewfsc8

Part of the Environmental Health and Protection Commons

Ramsey, Charles W., "A TAX INCENTIVE TO ENCOURAGE WILDLIFE MANAGEMENT: THE TEXAS EXAMPLE" (1996). *8th Triennial National Wildlife & Fisheries Extension Specialists Conference (1996)*. Paper 40.
http://digitalcommons.unl.edu/ewfsc8/40

This Article is brought to you for free and open access by the Extension Wildlife & Fisheries Specialists Conferences at DigitalCommons@University of Nebraska - Lincoln. It has been accepted for inclusion in 8th Triennial National Wildlife & Fisheries Extension Specialists Conference (1996) by an authorized administrator of DigitalCommons@University of Nebraska - Lincoln.

A TAX INCENTIVE TO ENCOURAGE WILDLIFE MANAGEMENT: THE TEXAS EXAMPLE

CHARLES W. RAMSEY, Texas A & M University, 714 Meadow Lane, Bryan, TX 77802

A need for external incentives for private landowners to manage their lands for wildlife was identified and has been discussed for many years. As early as 1930, the Committee on Game Policy (Leopold Committee) stressed that incentives for private landowners were crucial to achieving public objectives in wildlife management on private land. Various forms of subsidies, regulations, and taxes have been proposed, tried, modified, perpetuated, or discarded. Incentives or disincentives commonly were directed to specific practices which impact wildlife.

Wildlife in Texas are dependent upon private lands for their existence. Over 90% of the land is privately owned and managed on the basis of individual landowners' goals. Agriculture, including timber production, is the prevailing use. So, many incentive programs directed to agriculture impact wildlife.

Federal farm legislation at least since the 1960s has included programs through USDA to cost-share specific land (habitat) management practices on private lands. More recently other governmental agencies and private conservation groups have offered cost-share, grants, or technical assistance to manage lands for certain species of wildlife. Thus, incentives to influence individual landowners' management of their lands have a full history. Measures of their success are sketchy.

Two different ideas are confounded in the recorded discussion of incentives for wildlife. One is the management of private land to benefit wildlife—a biological goal. The other is for the private landowner to provide public access to private lands for recreational purposes—a societal goal. The two ideas have been so intertwined at the governmental level that programs to establish the two ideas as society's goals have limited success because they fail to recognize what constitutes incentives from the perspective of the individual landowner.

An incentive is something which incites to action, but the crux of the statement is determining who is incited to do what. For example, technical assistance on game management does not address the landowner's problems of providing public access to a tract of land. Receipt of income from a hunting lease does not motivate or obligate a landowner to spend his resources to accomplish someone else's wildlife management goal—e.g., restoration of breeding habitat for neotropical birds.

Direct economic benefits to Texas landowners who have game species on their lands have been possible at least since the 1920s. In several areas hunters leased the right of ingress for hunting. "Hunting leases" became a significant source of income for many ranchers with large land holdings, and for farmers on whose land migratory game concentrated. This opportunity was not available for landowners with little game whether due to small size or lack of habitat.

Hunting lease income is an incentive for some individual landowners to provide limited public access to their lands for hunting, but not to all. It depends upon the landowner's perspective of the significance of the lease income to his overall welfare. On one extreme is the perception that hunting lease income is not worth the adjustments and problems of having strangers on one's land. The contrasting view is that hunting lease income is the major component of net income for one's ranch and should be expanded. A common perspective held by Texas landowners is that management of access for hunting as an enterprise is an add-on appendage to the primary purpose of land ownership, that of agricultural production.

Landowners commonly view habitat management for wildlife in a similar way to hunting leases—an appendage to forage management for livestock. For example, in the 1960s and 1970s wildlife management practices authorized in federal cost-share programs administered through ASCS frequently were not included by State and/or county committees for local funding. Instead funds were included in production practices such as brush control. The point here is to indicate that habitat management for wildlife was not an integrated part of land management in landowners' thinking or priorities. Hence, cost-share was not an incentive.

However, circumstances and attitudes were changing. The market value of open space land was becoming less related to its agricultural productivity and more influenced by other things. For example, agricultural practices such as removal of woody vegetation to improve livestock forage could significantly decrease the market value of a parcel of land by changing its aesthetic appeal.

As Texas became more urbanized, all land including land devoted to agriculture increased in value. Land which could be developed for a "higher use" increased dramatically in value and taxes even if the owner never intended to change his use of the land from agricultural. Increasing yearly taxes based on the land's potential for "higher use" could exceed the owner's revenue derived from agriculture.

The Texas Constitution states "taxation shall be equal and uniform....all real property shall be taxed in proportion to its value." The courts have held that "any method used to determine market value for purposes of assessing ad valorem tax which produces a substantially different figure than what property can be bought and sold for is fundamentally wrong and value thereby ascertained is

fundamentally erroneous;...." Thus, all land was taxed on its market value. Any tax incentive based on land use would have to be reconciled with this law and tradition.

As the public's perception developed that land taxes could become so high that farmers and ranchers would be forced to abandon agriculture in some areas, the State Legislature moved to offer some tax relief. It submitted a constitutional amendment that provided for the land to be appraised on its capacity to produce agricultural products. Texas voters approved the amendment in 1966. "'Agricultural use' means the raising of livestock or growing of crops, fruit, flowers, and other products of the soil under natural conditions..." However, accompanying criteria limited this appraisal to lands of families or individuals whose primary occupation and primary source of income was agriculture. This amendment substantially reduces taxation of land that qualifies, but the criteria for qualification are restrictive because they address both land use and landowner occupation.

Perhaps this was generally perceived as an effort to "save the family farmer" because it focused on the individual landowner as well as land use. However, the constraints of "primary occupation and primary source of income" were restrictive to many even at that time. "Primary occupation" means that if the owner conducts several different occupations, then agriculture must take more of the person's time and effort than any other occupation. "Primary source of income" means that agriculture must provide more of the person's gross income than any other business venture and it must be done for profit. Use of land for hunting (wildlife management) was viewed as a "non-agricultural purpose" even though the leasing of hunting rights had been in practice for 40 years. Relatively few landowners chose to seek to qualify under these considerations.

Ten years passed before sufficient interest developed in "promoting the preservation of open-space land" that the Legislature submitted another amendment to the constitution. This redefined use of open-space land for agricultural purposes, as well as included land devoted to production of timber. It provided for taxation of agricultural and timber land based on its productivity capacity. Another provision directed the Legislature to define by general law the criteria for taxing open-space land. This was approved by voters in 1978.

Subsequently the Legislature through the Property Tax Code defined the process for appraisal of open-space land. This law substantially expanded eligibility to land devoted to farming and ranching. The focus was on use of the land and not on the owner. The owner's income and occupation tests were not included. Qualified land was defined as "land that is currently devoted principally to agricultural use to the degree of intensity generally accepted in the area." Efforts were to give fair and equal tax treatment to those actively involved in production from their land. "Intensity of use" is an important concept since it helps define agriculture as the primary use.

Use of land for wildlife management again was viewed as a "non-agricultural purpose." But, a hunting lease could be considered compatible with a primary agricultural use, e.g., grazing cattle. However, the intensity of use criteria did not allow a reduction in agricultural use to enhance wildlife habitat or favor wildlife species. As general public attitude became positive toward active wildlife management, some private interest groups lobbied for favorable tax treatment of land managed for wildlife.

In 1991, the Legislature responded by amending the Property Tax Code to include wildlife management as an "agricultural use," qualifying land for agricultural appraisal and taxation. However, the Texas Attorney General's office questioned the constitutionality of the action since land managed for wildlife was not a part of the definition of agricultural use in the 1978 amendment. Changing its status required yet another constitutional amendment.

The Legislature submitted "the constitutional amendment to allow open-space land used for wildlife management to qualify for tax appraisal in the same manner as open-space agricultural land, subject to eligibility limitations provided by the legislature." In 1995 the voters approved.

The Legislature in turn implemented the amendment through the Property Tax Code, by making wildlife management an agricultural use. This means that before being considered as land in wildlife management use it must first be qualified as agricultural land involving certain length of time and intensity of use criteria which were established in the 1978 constitutional amendment. Additionally this means that land qualified for timber appraisal is not eligible for wildlife management use at this time.

The Code specifies eligibility requirements for wildlife management focused on "active management, impacting a population of indigenous animals, and management of wild animals for human use." Demonstrating "active management" requires activities in three of the following categories: "a. habitat control; b. erosion control; c. predator control; d. providing supplemental supplies of water; e. providing supplemental supplies of food; f. providing shelters; and g. making census counts." The same legislation requires the Comptroller—with the help of the Texas Parks and Wildlife Department and the Texas Agricultural Extension Service—to develop guidelines for use by the chief appraiser in determining whether land qualifies.

Guidelines were developed by a group of 25 biologists, and reviewed by representatives from conservation groups, the Comptroller's office and county tax appraisers. The guidelines expounded on the requirement of appropriate "active management activities" for each ecological region in the State. Development of a management plan by each landowner for his landholding was recommended.

It is interesting to note that it took over 30 years for common perception of wildlife management to progress from something apart from agricultural land management to a recognized part of the same. It is still unknown as to how many landowners will view this as a favorable incentive for their situation, but favorable votes on Constitutional amendments indicate significant interest.