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THE UPPER DELAWARE -- AN EXPERIMENT
IN PARTNERSHIP MANAGEMENT

By

David J. Allee

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The Upper Delaware -- An Experiment

In Partnership Management^{1/}

by David J. Allee^{2/}

Regional resource management has been attempted by hundreds of commissions, districts, authorities and projects. Many, if not most, have fallen far short of the ambitious goals that have been set for them. Natural systems are inherently difficult to manage. We don't understand them very well, and they exist in a political and economic environment that never fits them. Or, more to the point, success depends upon reshaping the political and economic environment to fit the management requirements of the natural system. No small task. It is a constantly changing environment. But those charged with responsibility to manage rivers and the like have no choice but to keep trying to reshape the environment in which they work. The Upper Delaware National Scenic and Recreational River is an experiment in reshaping a political and economic environment from which we can learn a great deal in the years ahead.

This paper will begin by asking some questions about the situation faced by the National Park Service and the many local officials and citizens involved. Instead of managing resources owned by the government,

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the proposal here is to weld together a partnership of government agencies and private owners that will work for the collective good. But instead of following the rational doctrine of plan first and act later, is the problem to try various management tools and as everyone learns how they work, fashion a plan based upon experience? Instead of the experts and professionals having all the answers, is the problem to get agreement on the questions? Will the answers then follow from that agreement? The politics of the partnership situation may require such a break with planning orthodoxy.

For several hundred years public management of privately owned natural resources has been largely delegated to local governments. Local governments were expected to provide services such as water supply, waste disposal, fire and police protection and such property and personal protection regulations as health codes, property transfer, trespass control, subdivision and zoning controls. The state constitutions and legislatures provided the legal framework for such local functions. In recent decades there has been a growing role for state and federal agencies in these local functions. In cases such as water pollution control, these agencies are the senior partners, providing substantial funding and regulatory support. The justification for such partnership arrangements is that there is a growing stake outside each local jurisdiction in the way land is used and thus in what results from the way in which these functions are performed. Obviously, such restructuring of government roles and rights (i.e., claims on results of property use) do not proceed smoothly. There are many experiments, many false starts, plenty of uncertainty and conflict. But out of it all should come more fruitful and rewarding use of our resources.

The point is that what we learn from this experiment may help us in many other situations and not just in those that involve rivers and recreation. Agencies of government and private resource owners interact in many, many other settings, but there are only a limited number of ways they relate to each other. Some of the most common ways are research, information and technical assistance, cost sharing, regulation and organizational assistance.

For example, the extension of regulation that limits an owner's use of his property in order to protect someone else must walk the fine line of the taking issue. Indeed, the liberal interpretations of the courts in the application of the police power keep the legal limits of regulation from being as much a constraint as the political interpretation of what these limits should be. Compensation is the legal "answer", but how can it be made into a politically and administratively effective answer? The Delaware may be a place to find out.

Another potential lesson is in the use of cost sharing for municipal services. State and federal agencies are regularly put in the position of creating demand for local services where there may or may not be a concurrent expansion of tax base to help pay for them. And on the other hand, state and federal governments are regularly asked to provide cost sharing to insure higher levels of services than local preferences and resources would allow. What is an equitable way to share these burdens? How do we decide what should be in the package that the states or the federal agencies "buy" from local governments? The Delaware may be a place to find out.

Local governments provide very different mixes and levels of service and thus have different capacities to act. This means that consumers

of public services have a measure of choice, depending upon where they choose to live, of what they want to pay and what they will get for it. With a highly mobile population, and many with a second home in an area like the Upper Delaware, such diversity probably adds to the overall quality of life the nation can achieve. But what does this imply for public resource management? It means that the local partners have different resources and objectives to offer to the partnership. There will be greater and less commonality, greater and lesser conflict, between interests being represented by the state and federal agencies and those represented by the local governments. A common approach to dealing with this problem appears to be to provide funding for local or regional planning agencies to perform part or all of the analysis and design of problem solutions. Housing, urban renewal, water supply and wastewater grants, educational funding, medical facilities grants, and recreation cost sharing require a general plan to accompany the project design. The differences between levels of self-provision without outside assistance and some standard provide part of the justification for support from the state or federal government. Local and regional planners can be expected to be better able to impact the rational-analytical processes of state and federal bureaucracies and have the virtue of a better understanding of and closer contacts with the local political structure. But the traditional planning activities have not always led to widely supported decisions, particularly in rural areas. Indeed, some find that conflict between values is increased rather than finding an accommodation between values. Stalemate and inaction can result. How can conflict resolution be enhanced more effectively by the energizing of a local planning process? The Delaware may be a place to find out.

The Public Economics of a Recreational River

Academic economists have several ways of characterizing the problems faced in managing a natural resource system like that of the Upper Delaware. First of all, recognize that some property rights in the resources are quite clearly identified, well protected by the courts and other public services. These tend to be well reflected in the market, that is, in prices paid and received. Other rights or claims on the values of the resources are more ambiguous, less well identified and less well protected, and may not be reflected in any price. Picture in your mind the difference between an elderly person remembering the way the Delaware was forty years ago, and wondering what it's like now, as compared to the young canoeist who has just paid for the rental canoe he used on a crowded Sunday, or the bankside property owner cleaning up the broken beer bottles on Monday. Changing any of those pictures changes the rewards and burdens, that is the property rights, in those resources.

Crowding, trash and ruining a memory or a view are somewhat different ways in which the market can fail. When one more person joins the river after it is already full, at least by the standards of those already there, what do we mean? An economist could mean that it is crowding if those already there would be willing to pay enough in aggregate to be able to bribe that last new arrival to leave -- or more accurately, to have done something else that day. The trash is the result of one activity that reduces the value of another. It is not reflected in the prices paid by the trash producing transaction, and no compensation is paid to the person who is a loser because of the trash. Similarly with the memory or the view; those who enjoy them are not parties to the transactions that destroy or enhance them.

The result is that the market distributes the burdens and rewards from resource use differently than if all the values were fully captured in the prices paid. But no price in any market ever captured all of the values involved. All markets fail in that sense to some extent. The point is, does somebody want to do something about it? Are there ways to change the distribution of burdens and rewards that are worth the trouble?

One could imagine shifting some of the demand from crowded weekends to less crowded weekdays. Some of the users might switch to the Allagash if the pleasure isn't reduced. On the other hand, some may be attracted to a "people" float and wouldn't come if it weren't crowded. Perhaps a compromise that limited use in mid-week to insure a variety of possible experiences would be the best marketing strategy. The point is that like a shopping center, the system has to be managed as a whole in order to maximize returns. Unlike a shopping center, it is very difficult to use profits as a basis for funding the data collection, analysis and buying the expertise needed to make those kinds of choices. Indeed, managing a shopping center is a much easier task to do well in almost every way.

From the economic point of view the hardest task in system management is measuring demand, i.e., what people would be willing to pay if only there were some way they had to pay. The shopping center manager can experiment with his own rents to see what the traffic will bear for access to the market place he manages with all its common services and existing traffic generators. He can also observe services provided and rents paid in other centers. The result is that the rents are more likely to be equal to the marginal value of the center to the user. But the river manager has to consider those problems of crowding trash, memories and views without easily observed rents. He must turn to the political process to get a measure of who cares and how much. As a public manager

he also must be sensitive to those interests that aren't very well represented.

Just as with a poorly managed shopping center in a good location, the Upper Delaware will get along regardless of how well we manage it. Returns will be satisfactory. It is as well protected from irreversible damage as anywhere and may not be much more sensitive than the next river. Future studies may provide a different picture. But for now the management challenge seems to be to achieve something more than survival and adequate social and private returns. Why not strive for the best? Because the best is even hard to define is not a reason to stop trying to achieve it. But note that if the best is not achieved, and system survival and adequate returns are the best that is done, the missed opportunity may not be noticed by very many. Babies that aren't born aren't missed.

The Upper Delaware National Scenic and Recreational River

The Upper Delaware is different, and thus instructive, in many ways. Preservation and management under the National Wild and Scenic Rivers System or the counterpart programs in states like New York and Pennsylvania have more usually been accomplished by land acquisition. A land management agency is then put in charge. It can manage directly through investments in facilities, through permits, rules and regulations. These can be based upon professional judgment or the results of studies, analyses and plans, including the experiments carried out elsewhere. But in Section 704 of Public Law 95-625 the Congress called for a different approach here. This is a partnership management of the river corridor by the National Park Service, the Delaware River Basin Commission, the two states, the five counties and the fifteen townships. The Park Service

is to seek the assistance of others in identifying and achieving the federal interest in the management of the river. It is given limited tools to achieve its mission.

The development of a plan has begun but before it is completed, many other things must happen. The significance of the plan is that the Secretary of the Interior has the authority to try to implement the plan, including the limited purchase of fee simple interest or easements for partial interest on lands that do not conform to the plan and which cannot be made to conform by local, state or Commission action. The Park Service is limited to interest in 450 acres as interim measures and 1000 acres to implement the plan. In practical terms, the Park Service must turn to other agencies for use of the police power and cooperation in achieving the goals.

Also there is to be an analysis of benefits and costs of implementing the plan including the fiscal impact upon local governments. This suggests a level of analysis common in water development projects but less common in park development or land use management.

Land use management is to be a feature of the plan including specification of "the application of available management techniques", and is to have a ... "proposed assignment of responsibilities to the appropriate governmental unit at the Federal, regional, state and local levels"...

To discover and find support for the elements of the plan a number of actions have been initiated and more are called for. First, Federal cost-sharing has been provided for police and trash services (\$250,000). Some townships now provide these services publicly for the first time. The basis for the allocation and amount of such funds will continue to be discussed. For example, how should the size of the problem caused by river use and associated levels of local effort be reflected? Should such

cost-sharing be contingent upon attaining some particular levels of service? Should it be contingent upon the enforcement of a package of river related measures that go beyond security and litter?

Second, the Park Service has instituted..."provisions for information to river users, education and interpretation activities"... But... "regulation of recreational use of the river" is also called for in the act. Regulation of the use of the river without jurisdiction on the land promises to be a most difficult task because of the many access points up and down the 75 miles of river. While the act calls for the Park Service to implement use regulation as an interim program it is not clear just what a few rangers can be expected to accomplish with the thousands of users on a sunny summer weekend. The two largest outfitters are reported to be able to put more than 2000 canoes on the water, many occupied by novices. The rangers have limited authority on non-federal land. Much of the private land is posted to prevent picnicking and camping but restricting canoeists to commercial and public sites so that the no trespassing signs may come down will be a long time in coming, if ever. The crowding problem is an obvious place where partnership experimentation is called for.

Third, the Park Service planning team has put out for review initial guidelines for land and water use control measures called for in the act. At this stage, they emphasize zoning and its many related land use regulation techniques. It lists and describes uses that are, or are not, judged to be compatible with the two scenic or the three recreational river segments. Setbacks, yard requirements, lot size, sign restrictions and the like are spelled out with some specificity but with some scope for local adjustment. Some visual and other standards are included such as general prohibition on clear cutting of trees and brush and no intensive

selective cutting within 100 feet of the river. No standards are proposed for measures to directly manage river use at this time. Proposals can be made now or later for river use measures or for variations in those land use guidelines, or for such things as adding special habitat protection features, or extra water and air pollution controls, or erosion control standards above those in place. The point is that the plan is to be developed in response to whatever guidelines are in place.

The opportunity is there for the partners to put something in the guidelines and give it a test before it goes into the plan where it must be applied in detail throughout the corridor. This can happen in ways that make maximum use of the capabilities of the different partners, including allowing for the development of new capacities and reinforcing relationships. The Park Service has the responsibility to evaluate how well the activities of the other partners are living up to the specifications of the guidelines and the management plan. It is doubtful that the Park Service will be able to deal with more than marginal or incremental gaps between the plan and performance. The process by which guideline and plan changes come about must be one of experimentation, education, accommodation and support building. If it doesn't follow all of these steps it is not at all clear how the political and administrative resources to manage the river will be found.

The primary focus for the project to date has been with local people. Since November 1975 a group known as the Upper Delaware Clearinghouse (UDC) served this purpose and since the Spring of 1978 this role has been formalized into a Citizens Advisory Council (CAC) with the passage and implementation of the Act. The draft guidelines, for example, are based upon proposals developed by the UDC with input from many public meetings. This process continues with monthly work sessions and monthly public meetings, plus special events. An example is a recent seminar called by the

CAC to discuss anything related to the program. The following questions were posed by the invitation to local officials, planning boards and others.

- (1) The boundary question -- how and where to draw it.
- (2) The zoning question -- should standards and allowed uses be flexible, recognizing limitations imposed by terrain, roads and service facilities?
- (3) Recreational uses -- is overuse of the river threatening the rights of residents as well as the scenic and recreational values which led to the designation? Should there be ordinances to control campgrounds and a permit system to limit watercraft?
- (4) Has federal aid for police, sanitation and planning been effective? Should it be continued? Increased? Should distribution formulas be amended?

The UDC was composed of representatives of county planning departments, local planning boards, the river associations, the two state conservation agencies, and the Delaware River Basin Commission. The CAC on the other hand consists of six representatives from each state nominated by each of the counties, two members appointed at large by each Governor and one member appointed by the Secretary of the Interior. The CAC is to report to the Secretary and the states with its appraisal of the management program and suggestions for change. It is supported by the same staff that reports to the Secretary and that carries out planning and operational tasks. This staff also has responsibility for management of federally owned parks. Each of the counties and each of the states is sharing in the plan development work and those planners represent some further CAC staff support capability. To date, the Secretary of the Interior, the Congressional delegations and the state representatives give some indication that they expect the CAC to function as a quasi-legislature for the river management program. If a partnership approach is to become a reality there must be some arena where the partners and other

interests come together to work out their differences. Recently initiated studies of institutional and legal alternatives may suggest an alternative arrangement. But until something else is put in place the CAC will need to perform in a role that is closer to that of a board of directors than to that of the typical agency advisory committee. This will involve a style of politics that may not be familiar to the agency staff. Agency adjustment to the politics required may be crucial to success.

The Politics of Partnership Management

Parks are one of the services that governments provide. They are much like schools, hospitals, dams and highways in the politics that they require. Distributive politics is a term coined by Lowi to describe the category of political theory into which most park projects seem to fall, most of the time. No public policy enjoys only one kind of politics all of the time. Those who see the benefit of each service, parks or what-have-you, and with perhaps only that interest in common, join together to support the programs that provide that service. Each project is dealt with separately and "mutual noninterference", "log rolling" and "pork barrel" are used to describe the coalition building processes involved. Leadership is executed in terms of a brokerage role and is more likely to be expressed in the legislature or in an agency rather than in the executive. Policy is arrived at more through cooptation rather than conflict and compromise. Indeed, lack of conflict is usually a prerequisite to being included in an expansion of service. The focus is on all gaining something, rather than on the explicit balancing of costs as well as returns incident to different groups. Costs are usually so diffused (eg., borne by the taxpayer or the environment) as not to be perceived nor well represented in the consent building process. Little

coersion then is required to implement the policy.

This appears to be the dominant model of park development at the national level. It particularly fits the situation of federally owned and operated parklands. In that case supporters come to the agency seeking a known product. The agency develops a number of techniques for providing that service that minimize conflict. The benefit-cost ratio is such a device in water projects. The application of other professional and technical procedures or criteria to the design and execution of the service helps to legitimize the inclusion of a particular project in the program. It is this aspect of the planning and management of individual projects that may be difficult to adapt to the needs of partnership management. Bargaining and respect for accommodation may need to replace professional standards and agency uniformity. The Park Service may need to give special attention to this aspect of its role here.

Policy development within the Park Service may often follow the political theory category that Lowi calls redistributive politics. It is characterized by elites having their way even though both costs and benefits may be quite apparent. Class is more important than group. Ideology is a shaper of choice more than distribution of benefits and costs. Coersion can be substantial, but it operates at the system level rather than at the group or individual level. The holders of the command posts build the policies. Such a system may fit the need to minimize conflict in a directly owned and managed park system. But it may be less suited to partnership management.

Luckily, no model fits reality perfectly, and the basis for shifting to another pattern is always there. What pattern of politics is called for by the Park Service, or anyone else for that matter, may depend upon understanding how the partnership itself might operate. Lowi's regulatory

model may fit here. Further thought is needed to spell out some detail.

In water resource management, public participation has never been lacking informally. The support requirements for dam and channel projects have been substantial. But as Holden observed in 1966, water quality policy in both the permit and treatment plant construction activities have always involved a substantial amount of bargaining between polluter and enforcement official. This is a type of politics that fits neither the distributive nor the redistributive models but still a third "general" theory of politics which Lowi's classification system calls regulatory politics. It can apply to much more than the public activities usually designated as regulatory. Changes in both water development and water quality management may increase the significance of this type of politics and with it change the kinds of information that must be forthcoming.

The essential features of regulatory politics are captured in the pluralist tradition of political science. Policy is the result of group conflict and the groups are large and well organized. It is not the result of log rolling by many, many small groups who have nothing else in common but the result of groups whose interests collide. It is not a question so much of colliding values which in our system may go forever without being resolved. Rather one group or coalition cannot continue to enjoy its values unless it can achieve an accommodation by another group or coalition of groups brought together by the conflict. Rules for accommodation tend to be broad and give the appearance of inflexibility. Subsidies are more openly identified. Leadership and coalition members may be too unstable to fit the term of an elite in the political authority sense. Bargaining, mediation, agreements and acceptability characterize an emphasis on process. Information on the benefits and costs enjoyed by

their behalf.

Consider how this model may apply to the problem of nonconforming uses in highly heterogeneous rural areas where only a limited amount of compensation may be paid by the Park Service for changes in property rights. Or consider the dilemma of managing crowded weekends with only a few rangers, a few local police and a lack of cooperation and coordination. More than minimal public management goals will require the mobilization of substantial local understanding and support. They will require the capacity to arrive at a deal with the conflicting interests in any issue and make that deal stick. Ideology gives way to exchange.

The Park Service will have to decentralize more of its planning and operational activity for a situation like the Upper Delaware. While this is a pioneering venture, it is by no means alone in the system. Many of the new responsibilities placed on the Service are placing similar demands upon them. These are being reviewed as part of the planning. While these other cases of partnership management may provide little specific guidance for the Upper Delaware, then commonalities should encourage the Service to find ways to accommodate the different political demands that they represent. Carrying out the terms of partnership agreements will require different internal arrangements than for parks that are wholly owned units.

For example, either the plan or the guidelines or both must be seen as flexible and subject to change as we try things, gain experience and gain support for particular options. Issues have to have a clear way to arise and be resolved. Someone affected should have the feeling that if in the management of the park we do something stupid -- or at least something someone doesn't like -- that there is a process truly available to change

different groups might become grist for the mill rather than symbolic accommodation of a general value or ideology as it is in distributive politics.

But public resources management is a localized and sectionalized phenomena. This focus is on the lake and the watershed and the associated communities. Also for more effective management, many of the functions performed by and carefully guarded by local governments will need to be engaged -- land use controls are a case in point. The distributive politics involved will still be dominant at the national level. This suggests that the scope for expanding regulatory politics is at the local level to achieve consent and agreement that can be transmitted to the national level.

Where distributive politics are hamstrung by local conflict the search for a broader coalition should look attractive. But this may require moving away from the presumption that Federal money will only be available for land acquisition and direct management. The Park Service may love to find ways to support a variety of sources. Broader access to alternative means will attract new support groups and encourage accommodation.

A planning process that puts emphasis on earlier identification of more of the direct and indirect benefits -- even before they can be refined to apply to particular options -- suggests that conflicts may surface while they can still be accommodated in the planning process. If no conflict arises, distributive politics can proceed as usual. If it does and no accommodation appears possible, the unsatisfied interests -- whether because of deeply felt value conflicts or otherwise -- will have received a more obvious application of political due process. Planners will have a better chance to display accommodations which may still not be acceptable to a particular group but which others find acceptable on

it. The sense that there is a power, distant and inaccessible, which will impose its will through the plan, must be largely avoided. Otherwise, the politics of partnership can't operate and only acquisition will be an option. Management of a public park that is not publicly owned may depend upon a highly visible, problem solving approach that takes one problem at a time, attempts an interest balancing solution with open recognition that the issue will be addressed again.

Situations where potential irreversibility exists -- in either the resources or in the politics -- have to be an exception to serial and remedial planning and administration. but the planning process has to identify these in the clearest terms. To date, none have been so clearly identified for the Upper Delaware.

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