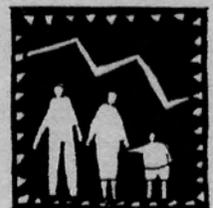
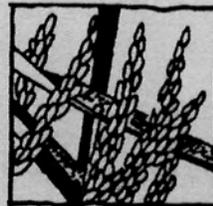


STAKES IN THE GROUND

Provincial Interest in the
Agricultural Land Commission Act



A report to the
Minister of Agriculture and Food
by Moura Quayle
September 25, 1998

STAKES IN THE GROUND:

Provincial Interest in the Agricultural Land Commission Act



REPORT SUMMARY

Under British Columbia's *Agricultural Land Commission Act* (the Act) the provincial Cabinet may consider inclusions, exclusions and designation changes concerning agricultural land in the Agricultural Land Reserve if the application for change is considered in the *Provincial interest*.

This Report Summary briefly outlines my recommendations. The supporting arguments for these recommendations are found in the body of the Report.

The Minister of Agriculture and Food requested that I consider and report on the following:

Should the expression "provincial interest" in section 40 be defined in the Act or regulations, and if so, consider options for that definition?

and

Should the balancing test found in section 43 of the Act be clarified and if so, how should competing values be weighed?

A few important points provide a background for reviewing "provincial interest":

- * *Agricultural land is scarce in British Columbia. Of the land in British Columbia, less than 3% is capable of supporting a range of agriculture; just over 1% is considered prime agricultural land, and less than 0.01% is capable of producing the tree fruit we associate with "Grown in BC" pride.*
- * *Agricultural land is sensitive and precious. Fertile soil and the physical and environmental conditions for agriculture are unique and irreplaceable resources. Yet this sensitive natural system supports an industry ranked in the largest economic sectors of the province, with attendant family, community, cultural and provincial economic benefits.*
- * *Prior to the creation of the Agricultural Land Reserve in 1973, government figures estimated 6,000 hectares (15,000 acres) of prime agricultural land was lost to urban non-agricultural development each year.*

- *Population growth is rapid in British Columbia, and, historically, agricultural land has been developed because it is one of the easiest places to build. There is no indication that this development pressure will diminish.*

The following recommendations are based on the belief that the preservation of agricultural lands is critical to the future of the province, particularly in relation to sustaining a safe and secure food supply.

■ ■ **Recommendation 1:**
 ■ ■ **DEFINE PROVINCIAL INTEREST IN THE ACT**

The expression *provincial interest* should be defined in the Act as province-wide public interest and should include consideration for:

- the preservation of agricultural lands as a scarce and non-renewable resource and the promotion of agricultural use of the land;
- the long-term consequences of exceptional inclusions, exclusions or designation changes to agricultural land in the Agricultural Land Reserve (ALR); and
- an open and accountable decision-making process.

Proposed Definition:

"Provincial Interest" means the public interest of all British Columbians related to the preservation of agricultural lands, and includes the following essential characteristics:

- province-wide context;
- long-term consequences;
- open and accountable decision-making; and
- the preservation and management of scarce and important provincial assets.

■ ■ **Recommendation 2:**
 ■ ■ **PROTECTION OF AGRICULTURAL LAND IS IN THE PROVINCIAL INTEREST**

The preservation of agricultural lands and the promotion of agricultural purposes is in the Provincial Interest. In any balancing test to consider overriding the value of agricultural purposes, the following priorities are proposed:

- preservation of agricultural lands and the promotion of agricultural purposes;
- environmental and heritage factors; and
- economic, social and cultural factors.

Environmental and heritage values share a long-term perspective and a uniqueness with agricultural values. However, in the ALR these purposes on a site should only override agricultural purposes if they cannot be replaced or re-located to another non-agricultural site OR if these purposes result in a "no net-loss" to the agricultural capabilities of the area. No net-loss means replacing the land in the ALR with the same size or larger site that has equal or better agricultural capability.

Economic, social and cultural factors reflect a short-term and often private instead of public perspective. For these reasons, they should factor little in any consideration of the Provincial Interest.

■ ■ **Recommendation 3:**
 ■ ■ **ESTABLISH AN OPEN, ACCOUNTABLE DECISION-MAKING PROCESS**

In the exceptional cases when Cabinet reviews an application for inclusion, exclusion or designation change to agricultural land in the Agricultural Land Reserve, the decision-making process should be open and accountable. To accomplish this, I recommend the following:

- To improve informed decision-making:
 - Establish the position of "Provincial Agrologist", similar to the Provincial Forester or Provincial Health Officer;
 - Establish the Environmental Assessment Board and add the Provincial Agrologist to the Board when dealing with a Provincial Interest referral;
 - Require a written submission from the Agricultural Land Commission at the beginning of a Provincial Interest referral; and
 - Require that the ALC provide comments on the report from the Board prior to the Cabinet decision.
- To ensure an open and informed province-wide decision-making process:
 - Provide the public with a discussion paper prepared by the Board which includes a clear summary of the application;
 - Require that a public hearing be held in the six regions of the province to ensure province-wide input; and
 - Release the Board's report for public review before Cabinet's decision.
- To ensure accountability:
 - Require that both the Board and Cabinet make their decisions relative to the new proposed definition of Provincial Interest;
 - Allow any member of the Commission, a Regional District Board or Municipal Council or a displeased owner to apply to Cabinet to start a Provincial Interest reference; and

- Hold land-owners accountable for exclusions by requiring specialized contracts to make sure that the project proceeds “as promised”.

■ ■ **Recommendation 4:**
 ■ ■ **PROMOTE INTEGRATED LAND MANAGEMENT
 AND AGRICULTURAL INNOVATION**

While I believe strongly in the preservation argument that is the basis for the Provincial Interest definition, there is also the need to address the broader context of agriculture and its future. Preservation in isolation will not be enough. The following recommendations address our need to move forward in support of agriculture and general resource management in the province.

- Promote Integrated Land Management: A BC Lands Trust
 - Establish a BC Lands Trust with an umbrella trust for agriculture so that a percentage of the billions of dollars of intergenerational wealth in the province can be put to good use as citizens are encouraged to donate their land or their cash assets to the Trust;
 - Improve integration of our land planning functions by combining the Agricultural Land Commission and the Forest Land Commission as well as generally broadening the Commission’s mandate to incorporate the management of resource lands generally; and
 - Request that the ALC and municipalities in B.C. initiate a review of the so-called marginal agricultural lands (classes 4 and 5) through first developing agricultural and open space plans and then evaluating potential changes on the basis of agricultural capability, no net-loss and a no negative effects to adjacent agricultural lands.
- Promote agriculture reparation and innovation through a comprehensive agri-food policy that includes:
 - Creating an Agriculture Infrastructure Fund under the proposed B.C. Lands Trust to help provide a reasonable return on land investment and for growth opportunities through innovation in agriculture;
 - Supporting education and basic research partnerships; and
 - Encouraging the next generation of farmers with the possibility of land leases and capital loans through the Agricultural Infrastructure Fund.

I thank the Minister for the opportunity to work on this Review. Many thanks go to those who generously gave their time, energy and thoughtful comments.

Without the courage to hold firm, with stakes in the ground, there will be no incentive to better manage our land base in the face of competing uses. We must halt the slow but steady erosion of our agriculture and food resources, and support our varied agricultural industries. As a forward thinking society, we must dig in, take responsibility, and make sure that future generations have a vibrant agricultural land base.

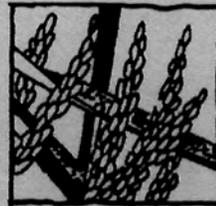
Respectfully submitted,



Moura Quayle
Dean, UBC Faculty of Agricultural Sciences
September 25, 1998



STAKES IN THE GROUND



R E P O R T

September 25, 1998

STAKES IN THE GROUND:
Provincial Interest in the Agricultural Land Commission Act

STAKES IN THE GROUND
PROVINCIAL INTEREST UNDER
THE AGRICULTURAL LAND COMMISSION ACT
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INTRODUCTION

This is the report of my review of "Provincial interest" as a condition for Cabinet involvement in decisions under the British Columbia Agricultural Land Commission Act (the Review). The B.C. Ministry of Agriculture and Food appointed me for this **Review** on a part-time basis from May 6 to September 10, 1998. I am the Dean of Agricultural Sciences at the University of British Columbia, with a professional background in land planning, landscape architecture, and development.

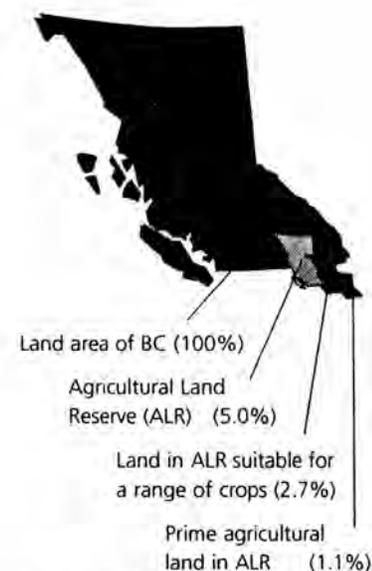
With the help of the Ministry of Agriculture and Food a background paper was available to the public on May 6, 1998. I then prepared a Discussion Paper dated June 15 (revised July 2, 1998), and conducted a series of interactive consultations throughout June and July, 1998; the stakeholder process culminated in an Options Paper dated July 31, and a Stakeholder Workshop on August 21, 1998.⁴ I was fortunate to link this Review's stakeholder consultations with the Ministry's Agri-Food Policy workshops. These six regional workshops were organized by the Ministry in June and July, 1998. During three months of consultations I spoke with many stakeholders personally, and exchanged ideas with many others by fax, telephone and e-mail. A special note of thanks must go to all who participated in and assisted with this work.

Continuing population growth in British Columbia will only increase pressure on agricultural lands. These lands, neither abundant or renewable, are a small fraction of the province's land base. The agricultural industry and principles at stake are critical to the future of our province. The concept of the Act, and work of the ALC with the resources available, is commendable. Coincidentally, this year is the 25th anniversary of the policies and legislation behind our current Act and ALC, and a good time for reflection and refinement.

In British Columbia, less than 3% of our land can support agriculture; less than 1% is class one soil. As an example of unique environmental conditions affecting specific needs, less than 0.01% is suitable for tree-fruit production.¹

Prior to the introduction of an Agricultural Land Reserve in 1973, 6,000 hectares (15,000 acres) of agricultural land were lost to urban growth each year.²

In 1997, 90% of British Columbians felt that government should limit urban development to protect farmers and farm land; 72% believed it should be difficult or very difficult to remove land from the ALR.³



*Credit: ALC 1997
Preserving our Foodlands.*

¹ Agricultural Land Commission. 1997. *Preserving our Foodlands*, p. 4

² BC Land Commission. 1973. *Keeping the Options Open*, p.5

³ Ministry of Agriculture and Food and Agricultural Land Commission. 1997. *Agricultural Survey Poll* by Viewpoints Research Ltd.

⁴ Please refer to Appendix A for details.

The Context

The Agricultural Land Commission Act⁵ (the “**Act**”) evolved in the mid-1970s with primary objectives to preserve agricultural lands and promote agriculture in the province, through the creation of an Agricultural Land Reserve (“**ALR**”), and a Provincial Agricultural Land Commission (“**ALC**”) ⁶. The ALC was empowered to act as an agent of the government to fulfil the objectives of the Act.

In 1993, a Provincial interest reference process was introduced when general appeals to the legislative executive body in B.C. (“**Cabinet**”) were abolished, including those to an Environment and Land Use Committee of Cabinet.⁷ Amendments to the Act at that time included adding sections 40-44, which for the purposes of this Review are referred to as the “**Provincial Interest Reference**” as it is a referral of a matter by Cabinet to a board for a preliminary report (in short, the “**Reference**”) ⁸. The Reference process provides Cabinet with a pre-emptive override of the ALC process.

The current Provincial Interest Reference process is initiated by Cabinet if, “[it] considers [a matter] to be in the Provincial interest” for Cabinet review (s.40). The process requires Cabinet to specify terms of reference, and refer the matter to an Environmental Assessment Board or commissioner, which,

“must conduct a public hearing of the probable environmental, economic, social, cultural and heritage effects, and without limitation, the agricultural effects” [of the matter] (s.43).

The section 43 listing of effects is generally referred to as the “**Balancing Test**”. On receiving the board or commissioner’s report, Cabinet may make a final and binding decision on the matter (s.44).

In 1998 Cabinet invoked the Provincial Interest Reference process under section 40 for the first time. Mr. David Perry was the first commissioner under the existing process, and subject to Cabinet Guidelines at that time.⁹ The Minister of Agriculture and Food, the Honourable Corky Evans, asked me to further consider several important issues raised by Mr. Perry.

⁵ The Agricultural Land Commission Act RSBC 1996, c.10, (s.10); ALR (ss.12-15), ALC (ss.2-10).

⁶ See Appendix B for a brief legislative history. The original intent was for a more integrated and general Land Commission, however these objectives were narrowed by a change of government in the mid 1970s.

⁷ Cabinet Appeals Abolition Act, SBC 1993, c. 73.

⁸ Refer to Appendix B for the current text of sections 40 through 44.

⁹ The Perry Report, 23Feb98. See also Appendix B for the text of the Cabinet Guidelines for Invoking the Provincial Interest.

I was asked to review Provincial interest under the Act using a stakeholder consultation process. The assignment was to refine or clarify the concept of “provincial interest” and the Balancing Test. To focus the Review process, we re-stated the general objectives as two questions:

- *Should the expression “provincial interest” in section 40 be defined in the Act or regulations, and if so, consider options for that definition.*
- and
- *Whether the balancing test found in section 43 of the Act should be clarified and, if so, how competing values should be weighed?*

Whenever “provincial interest” refers to the recommended clarification proposed in this Review, it is noted and capitalized as in “Provincial Interest”.

The Review Process and Report

The time frame of this Review was challenging given the topic, province-wide consultations, and my interest in interactive consultation and follow-up, not just input. The initial Discussion Paper was intended as both a report on what I had heard to date, and as a catalyst for more input from stakeholders. The Options Paper was intended to test underlying assumptions behind the Provincial interest question, and the context of the Review questions.

The stakeholders have significant opinions about agriculture and its current status in the province. This final report of the Review is then both a response to the questions posed, and responsive to stakeholders’ concerns about the future.

This report is not a consensus document, nor a result of a full public consultation process. It is the product of listening, discussion, research and my professional judgement. The consultation approach was intended to provide me with a sense of the problem and its scope. The consultation aspect grew with the opportunity to link with the Agri-food policy workshops, however this Review was never structured as a public participation process.

Some consultation respondents focused on concerns about process, some on weighting and rating of the Balancing Test factors, and we all brought our own values and beliefs to the table. However, during the consultation, parties with opposing views on politics and other matters frequently found common ground. They independently voiced strong opinions in favour of the preservation of agricultural lands and agriculture in B.C.

The report has been written for a public audience with minimal reference to where specific amendments relate to particular sections of the Act. I refer the reader to Appendix B for such details.

I would like to extend thanks to the participants in the stakeholder consultation for their energy and commitment to the process. Mr. Ken White offered valuable layout assistance in the preparation of the final report. I would also like to thank the part-time Review secretariat at UBC: Ms. Shannon Pitney, Administrative Assistant; Ms. Carolyn McCool, Legal Researcher; and, especially, Mr. Paul Fenske, Research Assistant for their work above and beyond the call of duty.



PART 1: DEFINING PROVINCIAL INTEREST: The Basics

■ ■ Recommendation One: ■ ■ DEFINE PROVINCIAL INTEREST IN THE ACT

The expression *provincial interest* should be defined in the Act as province-wide public interest and should include consideration for:

- the preservation of agricultural lands as a scarce and non-renewable resource and the promotion of agricultural use of the land;
- the long-term consequences of exceptional inclusions, exclusions or designation changes to agricultural land in the Agricultural Land Reserve (ALR); and
- an open and accountable decision-making process.

PROPOSED DEFINITION:

“Provincial Interest” means the public interest of all British Columbians related to the preservation of agricultural lands, and includes the following essential characteristics:

- (a) province-wide context;
- (b) long-term consequences;
- (c) open and accountable decision-making; and
- (d) the preservation and management of scarce and important provincial assets.

SUPPORTING ARGUMENT

This part of the Report (1) suggests an approach to defining “provincial interest” in the Act with three basic characteristics: substance, scale and process, and (2) proposes a definition.

Should “provincial interest” be defined?

Yes, I have concluded that this expression must at least be clarified in principle, if not defined in detail. The Review consultations included spirited debate over whether a defined or undefined term is most desirable. However, my conclusion is based on the need to promote common understanding by defining terms of reference in an age of information overload and diverse backgrounds.

I support clarifying “Provincial interest” to provide decision-makers with a framework for making more principled and consistent

decisions over time. Clarifying this expression will promote a more accountable process, and narrow opportunities for interference or manipulation.

My conclusion is consistent with a decision from the Supreme Court of Canada which considered "public interest", and concluded that in some situations such an expression needs clarification to avoid being unconstitutionally vague.¹⁰ It is also consistent with a recommendation of the first commissioner faced with a Provincial Interest Reference under the Act, who advised further clarification.¹¹ As discussed below, the relevant questions then become where and how to clarify the expression "provincial interest".

In the Act or Regulations?

The Act. People expressed concern about the openness and accountability of the process. Clarification in the Act provides the safeguards of the legislative process. Including a definition or clarification in the Act would still permit changes, as we expect legislation to be improved over time. Although more detailed clarification may also be included in guidelines, policies or regulations, the framework for clarifying the provincial interest should be in the Act.

What is the "provincial interest" and how should it be defined?

The term "provincial interest" is broad and hard to pin down. We grappled with how to provide useful clarification without establishing a rigid definition.

To build a definition, I initially looked at some of the concepts behind the words "provincial interest":

An "**interest**" by definition is based on principles that are grounded in values. These values change over time in response to societal changes.

A "**public interest**" includes values of broader application, longer-term perspective, and an open and accountable process. "Public interest" represents a general rather than a detailed concept.¹² The "public" part seems clear - it means all of us, or

at least, not "private". Yet some further common understanding seems necessary as even the courts have expressed concern about the lack of definition for "public interest".¹³

10 *R. v. Morales*, SCC, [1992] 3 S.C.R. 711 A

11 Perry, David G. *Perry Commission Report; A Commission of Inquiry*. (Government of British Columbia, Victoria, 1998).

12 Even the courts refer to the "notion" and the "general sense" of public interest in the absence of any context: "The breadth of the concept is a necessary aspect of a notion which accommodates a host of important considerations which permit the law to serve a necessarily wide variety of public goals." *L'Heureux-Dube in Morales*, 1992

13 B.C. Hansard, 1993; *Morales*, SCC, 1992

The "**provincial interest**" is part of the public-interest family of terms which define a geographic scope - such as national interest, provincial interest, regional interest, local interest, and community interest. Consequently, the use of "provincial interest" underscores the importance of a province-wide public interest.

I identified three groups of characteristics that seem important to any consideration of provincial interest: substance, scale, and process.

- **Preservation - the substance:** this is about the subject matter itself - for example, in this Review, the subject is preserving a land resource, promoting an associated industry, and balancing the merits of other uses on these lands;
- **Scale:** this is about "big" or "small", in the sense of geography and time - the scale here is the entire province, (or worded another way, a province-wide public interest); the scale of time is long-term - emphasizing the big picture; and,
- **Process:** a credible process in the public interest has the integrity of an open process and results in accountable decisions including the exercise of due skill, care and diligence.

Part of the challenge is that all three sets of characteristics or values need to be considered collectively for a decision to be in the provincial interest. Substantive values (such as "promotion of agricultural purposes is good") mean little if not applied by open and accountable processes (such as the Provincial Interest Reference process) or in the context of the appropriate scale (province-wide, long-term).

Initially I thought of the two questions for this Review, namely the Definition and the Balancing Test, as separate. However, the process of thinking this through has revealed that the Balancing Test is an important aspect of refining the Provincial interest definition. I therefore arrived at a two-part definition or clarification of Provincial interest:

- (1) affirming basic principles of provincial interest, such as scale, process and preservation, and (Part One of the Report)
- (2) outlining more specific, applied principles to clarify the preservation of agricultural lands and the consideration of alternative uses through a Balancing Test. (Part Two of the Report)

The following discussion briefly expands on the definition.

(a) province-wide context

Scale is the first characteristic which is essential to a definition of Provincial Interest. Some people said — isn't the scale of a "Provincial" Interest Reference obvious enough? Apparently not. A number of submissions and comments in my consultations, as well as the initial Cabinet guidelines of 1998, and the first Provincial Interest Commission, all had a tendency to slip to a context of regional-not provincial-interests. It is important to underscore province-wide scale and context.

(b) Long-term consequences

There is also a time element to a sense of scale. The Provincial Interest is about long-term consequences. This is even more critical because the Agricultural Land Reserve represents a scarce and important asset intended to benefit all British Columbians. Politics and economics tend to be based on short-term cycles: the Provincial Interest is about long-term consequences.

(c) Open and accountable decision-making

There were a number of thoughtful and strongly held concerns about the need to refine the Reference process. Although fine-tuning the process was not an initial focus of this Review, people suggested that good intentions mean little if not applied, or applied with a lack of integrity. Integrity in this context means a process which is fair, informed and accountable.

The stakeholders consulted appreciated that the Reference process in the Act provided for separate review by an independent board, as well as the obligation for a public debate. They were, however, concerned about the fact that a matter may never reach that point of public discussion. What if (a) Cabinet chooses to ignore the matter? or, (b) the matter is effectively trivialized under poor terms of reference? or, (c) effective review of public debate is undermined if poorly administered or poorly considered?

The Review consultations identified three areas in the Reference process as needing clarification: the start-up of a Reference, the importance of informed decisions, and the importance of an open and accountable process. Part Three of this report addresses these process issues.

(d) Preservation and sustained use

A general principle of public interest is that scarce and particularly sensitive or irreplaceable things are worthy of preservation and protection. This principle has evolved from cultural and natural heritage preservation legislation over the last century, and through environmental protection policies and laws of more recent times.

This principle recognizes the value of a historical perspective as we make decisions about the future. Preservation policies work best

when they integrate and support other uses. Increasingly, preservation objectives acknowledge that appropriate, sustained use of a resource is also in the public interest.

For example, one definition refers to "the use and development of natural and physical resources in a way, or at a rate, which enables people to meet their needs now without compromising the ability of future generations to meet their own needs."¹⁴ Fundamental to these expanded public policy statements, however, is the recognition and requirement that there will be situations where irreversible change to non-renewable natural (plants and animals) and physical (soil and water) resources must not be endangered.

This fourth general principle of Provincial Interest, that of the value of preservation and sustained use of resources, is the foundation for the more specific objectives of the Act discussed in the Balancing Test which follows.

It is worthwhile to note here the difficulty I had separating the Review of the specific term "provincial interest" from the greater context of agriculture, and beyond that, provincial and global issues. While I have chosen to make the very focused "preservation" argument, I am also aware that "times have changed" since 1973. We are approaching the millenium. Issues of globalization, food safety and security, bio-regional ecology, sustainable communities, rural and urban community form and technological growth should be influencing our policy-making.

A much broader approach is needed to address the future of agriculture relating to the above issues. Preservation policies in isolation will not be enough. However, I believe strongly that the preservation argument holds strong in the Provincial Interest Reference context.

¹⁴ Today, this is what we call sustainability - in fact the operative phrases in this paragraph were extracted from the 03Oct94 draft of a B.C. Environmental Protection Act, kindly brought forward for my consideration in this Review by a submission of the West Coast Environmental Law Association.



PART 2: DEFINING PROVINCIAL INTEREST: Balancing Agriculture And Other Uses

■ ■ Recommendation Two: ■ ■ RE-AFFIRM THAT THE PROTECTION OF AGRICULTURAL LAND IS IN THE PROVINCIAL INTEREST

The preservation of agricultural lands and the promotion of agricultural purposes is in the Provincial Interest. In any balancing test to consider overriding the value of agricultural purposes, the following priorities are proposed:

- preservation of agricultural lands and the promotion of agricultural purposes;
- environmental and heritage factors; and
- economic, social and cultural factors.

Environmental and heritage values share a long-term perspective and a uniqueness with agricultural values. However, in the ALR these purposes on a site should only override agricultural purposes if they cannot be replaced or re-located to another non-agricultural site OR if these purposes result in a "no net-loss" to the agricultural capabilities of the area. No net-loss means replacing the land in the ALR with the same size or larger site that has equal or better agricultural capability.

Economic, social and cultural factors reflect a short-term and often private instead of public perspective. For these reasons, they should factor little in any consideration of the Provincial Interest.

SUPPORTING ARGUMENT

The above recommendation responds to the challenge of applying the basic principles of Provincial Interest to the specific subject matter of the Agricultural Land Commission Act. The following discussion provides a summary of the thinking behind the above recommendation. More detail can be found in Appendix B, Part V.

Agricultural Lands and Purposes: The Priority

Most of us think "it's obvious" that agriculture is important - but why? How important? The fact that agricultural land preservation was legislated in 1973 and has been supported and maintained every since is persuasive evidence that it is in the Provincial Interest.

How does agricultural land preservation fit the proposed definition in Recommendation One?

Public Benefits. All British Columbians benefit from the sustained economic returns from agriculture, the diversity of agricultural communities, and the safety and security of local food supplies. A pride in the quality of agricultural products ("Grown in BC"!) and the preservation of a limited resource for future options, also benefit all British Columbians.

Long-term and province-wide scale. The benefits noted above are all positive, long-term consequences of the preservation of agricultural lands for agricultural purposes, and create a legacy for all British Columbians.

Open and Accountable Process. The administrative provisions of the Act and the work of the Agricultural Land Commission could use some updating or clarification, but generally provide a very workable framework for decision-making. This framework promotes the integrity of the process, including building information bases, collaborating with public and private parties and developing the expertise for open and accountable decisions.¹⁵

The above three principles confirm that the ALR is in the Provincial Interest; the fourth is why we give it priority status. The fourth general principle is that "the preservation and management of scarce and important provincial assets, particularly if sensitive or non-renewable" is in the Provincial Interest.

Is it scarce? Less than 3% of our province's land base can support a variety of agricultural uses; as low as 0.01% with the unique environmental, natural and physical capabilities for a given crop.

Is it sensitive? Fertile soil and prime agricultural land compromise an extremely sensitive system which is effectively irreplaceable in the context of reasonable criteria of time and economics.

Is it important? The Act was not merely to preserve agricultural lands under a bell-jar for museum reference, but emphasized the critical economic, social and cultural value of the agricultural use of these lands. These lands support one of the largest industry sectors in the province. They support communities and a way of life. They provide environmental and natural disaster buffers. They provide educational opportunities, and tourist and recreational visual amenities. They provide links to the past and opportunities for the future. As scarce, sensitive and important assets, preservation priorities would be properly assigned.

However, in addition, this asset is endangered. Even in 1972, legislative records referred to the loss of agricultural land as a "tragic misuse of an irreplaceable resource".¹⁶ Current figures estimate that at that time, prior to attempting to preserve agricultural land, 6,000 hectares (15,000 acres) of productive land was lost to urban, non-agricultural development per year. In the past twenty-five years urban and infrastructure development pressures have increased.

¹⁵ See ALC Handbook, 1996.

¹⁶ BC Dept. of Agriculture - Preservation of Prime Farm Land in the Fraser Valley (1972).

What about so-called "marginal" or class 4 and 5 agricultural lands? Even "marginal" agricultural lands now support important industries such as cranberry production and processing, and fine BC vineyards and wine production (and associated tourism) - which were largely unknown in 1973. But thanks to the foresight of the Act the land resources were there to foster these (and other) new agricultural economic centres. What about the increasing need for urban/agricultural transition zones? Although there may need to be some rationalization of smaller marginal land parcels, too often larger projects "in the Provincial interest" in the past have claimed prime, fertile, class 1 agricultural lands for a net loss to all of us.

For these reasons, I strongly recommend that we amend the Act to confirm the fundamental priority of preserving agricultural lands and promoting agricultural purpose. Agricultural purposes are the highest and best use for such lands. This is especially important for any Reference to other uses, to avoid misunderstanding, overlooking or abusing the intents of the Act. The time and cost of considering non-agricultural uses of agricultural lands should only be undertaken if likely to override this priority use.

The Balancing Test: Focusing the Scope and Priorities

The existing section 43 establishes the Balancing Test as follows:

"... the board, in accordance with the terms of reference, must conduct a public hearing of the probable environmental, economic, social, cultural and heritage effects, and, without limitation, the agricultural effects, ..."

The Balancing Test currently provides a general background for a board to consider non-agricultural uses of agricultural lands, and report to Cabinet. My conclusion is that the basic principles and definition of Provincial Interest from Recommendation One (substance, scale and process) need to be applied to the specific context of agriculture. Only in this way is the Balancing Test consistent with the Act.

Focusing the Scope.

Why focus the scope of the Balancing Test? One good reason is sheer logistics. The broad range of information, the time and cost constraints, and the complex issues could risk losing sight of important fundamental principles. In fact, this appears to have happened when well-intentioned statements were made by reasonable people about the broad and flexible scope or effect of the section 43 Balancing Test.¹⁷ Based on events earlier this year, the message could be taken that the erosion of an ecological and industry land-base preserve representing less than 3% of the

¹⁷ For example, see Appendix B for the Cabinet Guidelines for Invoking the Provincial Interest (1998), and the Perry Report (1998)

province is okay if it involves something like a major transportation facility or a project important to a region. Even the court offered little consolation as it noted that such a result should be expected by the consideration of a "truly complex set of issues by the body politic."¹⁸ The result has been to potentially open the floodgates to another wave of erosion of our limited agricultural land base. To Mr. Perry's credit, in the Perry Commission Report he called for a review of the language of the Act to provide better direction on such considerations in future; to the Minister's credit, he acted in appointing this Review.

Perhaps part of the problem lies in looking for examples of how to balance values in typical planning legislation. It is important to note that the Agricultural Land Commission Act starts out several steps further advanced than such legislation. Planning legislation often responds to situations where there is a lack of information or an absence of values with set priorities. In the Act, however, we have the information (agricultural capability), and the value of such has been determined (high, based on limited supply, and market and not-market factors). Therefore models from other forms of legislation may not be useful.

Establishing Priorities.

The discussion above outlines my reasons for clearly confirming the priority in any Reference: the preservation of agricultural lands and agricultural purposes. The intent, however, is not to advocate zero-tolerance in the management of the ALR. There may be a need for the ongoing rationalization of lands of marginal agricultural benefit as more and better information is available on agricultural capability. I understand that the ALC currently seeks to provide such clarification by a due and informed process.

Further, what we are talking about is establishing priorities in a very specific context: in a Reference which would *override* the assessment of unique lands previously deemed worthy of preservation in the Provincial Interest. Such an override should only occur due to a higher order of Provincial Interest.

The Act currently identifies the effects of five factors as the subject for consideration under the balancing test, in addition to agricultural purposes. These are,

- (1) cultural,
- (2) economic,
- (3) environmental,
- (4) heritage, and
- (5) social.

For reasons indicated below, I have considered these in two groups: (a) environmental and heritage, and (b) cultural, economic and social.

¹⁸ *FarmFolk - City Folk* (BCSC 1998).

(a) Environmental and Heritage Factors

There may be many uses compatible with the principles of preserving the scarce resources of agricultural lands and sustaining agricultural purposes. However, following serious consideration of various points of view, in my opinion, only environmental and heritage factors warrant consideration as in the Provincial Interest. They likely reflect a long-term perspective from the past to the future, and if sufficiently unique and important to be deemed worthy of preservation, they will be of public value to all British Columbians.

These factors could be consistent with the principles of Provincial Interest if the proposed sites for such consideration (i) could not be replaced or relocated to a non-agricultural site, and (ii) could be implemented with a no net-loss to the agricultural capabilities in the area. Further considerations are that environmental and heritage factors are *less likely* to impair or endanger the sensitive and non-renewable conditions of agricultural lands. Also, such factors are *less likely* to lead to a creep or erosion of agricultural lands on a larger scale due to political or economic conditions.

For these reasons, I am recommending that the probable effects of environmental and heritage factors be considered as proper considerations under a Provincial Interest Reference, and accorded secondary priority weighting.

(b) Economic, Social and Cultural Factors

Economic, social and cultural factors are treated in a block here because of the context: whether such considerations are relevant to override the preservation of agricultural lands and the promotion of agricultural uses.

These factors warrant tertiary consideration as in the Provincial Interest as they reflect,

- a short-term perspective of immediate problems (relative to the time scale of agricultural purposes);
- responses to problems not sufficiently unique and important to be deemed of value to all British Columbians (relative to the impact on a scarce and important provincial resources), and frequently to private, not public, problems;
- responses which could likely be replaced or relocated to non-agricultural sites, or addressed through other public policy initiatives; or
- responses which are unlikely to be implemented with a no net-loss to the agricultural capabilities in the area.

There is also a serious risk management aspect to including the effect of economic, social and cultural factors in the Provincial Interest Reference. These effects are *more likely* to impair or endanger the sensitive and non-renewable conditions of agricultural lands, and such effects are *more likely* to lead to a

creep or erosion of agricultural lands on a larger scale due to political or economic motivation from "precedent" decisions.

The recommendation to relegate these factors and resulting effects to tertiary status is not one made lightly. I know that local economic viability is critical to community pride and to support important programs for education, health care and environmental research. I know that any number of provincial infrastructure facilities can be viewed as in the Provincial interest. However, we also know that destroying unique conditions or ignoring fundamental natural systems has devastating economic and community effects down the road. We need to look no further than our local fishery and forestry communities or the quality of our air.

The priority here is not an abundant resource with a buffer for abuse or misuse. It is not prairie in a prairie province, forest in a forested province, or a fishery in a coastal province. The priority here is scarce, important agricultural land which represents a small fraction of our province. The priority here is not the preservation of lands to the exclusion of economic, social and cultural considerations, but for vital agricultural purposes which provide sustained jobs, food, sustained communities and ecological options.

Therefore, the Balancing Test recommended above reflects the priority of agricultural purposes on agricultural lands, and on other irreplaceable resources of long-term importance such as environmental or heritage effects.

We need to encourage extremely sober and careful second-thoughts in these decisions. If Cabinet feels strongly about a special project, I also understand that it has the ability to pass new legislation for that project. At least that would have the checks and balances of due legislative process, and would not confuse decision-makers addressing Provincial Interest References under the Act.

We need to respect the stakes in the ground around agricultural lands. By doing so we will focus the need to apply our creative juices to more comprehensive decisions necessary for better use of non-agricultural lands. More comprehensive land management will better accommodate all forms of economic, social and cultural purposes, in ways that are consistent with the preservation of agricultural lands and the economic, social and cultural values of agricultural purposes.



PART 3: Open & Accountable Decision-making Process

■ ■ Recommendation Three: ■ ■ ESTABLISH AN OPEN, ACCOUNTABLE DECISION-MAKING PROCESS

In the exceptional cases when Cabinet reviews an application for inclusion, exclusion or designation change to agricultural land in the Agricultural Land Reserve, the decision-making process should be open and accountable. To accomplish this, I recommend the following:

- To improve informed decision-making:
 - Establish the position of "Provincial Agrologist", similar to the Provincial Forester or Provincial Health Officer;
 - Establish the Environmental Assessment Board and add the Provincial Agrologist to the Board when dealing with a Provincial Interest referral;
 - Require a written submission from the Agricultural Land Commission at the beginning of a Provincial Interest referral; and
 - Require that the ALC provide comments on the report from the Board prior to the Cabinet decision.
- To ensure an open and informed province-wide decision-making process:
 - Provide the public with a discussion paper prepared by the Board which includes a clear summary of the application;
 - Require that a public hearing be held in the six regions of the province to ensure province-wide input; and
 - Release the Board's report for public review before Cabinet's decision.
- To ensure accountability:
 - Require that both the Board and Cabinet make their decisions relative to the new proposed definition of Provincial Interest;
 - Allow any member of the Commission, a Regional District Board or Municipal Council or a displeased owner to apply to Cabinet to start a Provincial Interest reference; and
 - Hold land-owners accountable for exclusions by requiring specialized contracts to make sure that the project proceeds "as promised".

SUPPORTING ARGUMENT

Start-up

Stakeholders frequently asked “who” should be able to initiate a Provincial Interest Reference process? There was also confusion about “when” a Reference could proceed relative to the ALC considering an application.

Who can request a Reference?

Stakeholders requested an amendment to section 40 in the Act to clarify who can request a Reference. An amendment should be considered to allow the ALC Commission, a regional district board or municipal council, or aggrieved owner to apply to the Lieutenant Governor in Council for a decision on a matter through a Provincial Interest Reference. However, I also appreciate that this right to apply must then be carefully filtered by Cabinet to avoid usurping the credibility and effectiveness of the ALC.

I understand that there may be concerns with what are perceived to be appeals to Cabinet. Appeals to Cabinet were generally abolished with the intent of restoring the integrity of decision-making, particularly that of the ALC, by transferring greater decision-making authority to the ALC.¹⁹ Concerns were expressed that Cabinet would either not be properly informed or would be influenced by political interest.²⁰

When do References occur?

The “when” concern arises from the inference in section 40 which currently provides that the referral by Cabinet must be for a matter, “...that is before the commission at the time of the order making the referral”. This seems to imply that the Provincial Interest Reference could only occur before a decision is rendered by the ALC, implying that a pre-emptive intervention is required. This timing also impairs the ability of others to approach Cabinet after an ALC decision with concerns of a breach of procedural fairness or the principles of discretion under the balancing test.

What is more of a concern is the implication from the current phrase (“that is before the commission”) that the Cabinet referral is intended to proceed as an overriding and intervening process, to preclude any ALC decision or, advising or even interactive submission. In procedural matters of “who” and “when” to initiate a Reference, I defer to experts on whether the right and timing to initiate a Reference by others is consistent with the intents and purposes of the Act and government practice.

¹⁹ Cabinet Appeals Abolition Act (1993).

²⁰ Gall, Peter, Grant, John, and Rankin, Murray. 1981. *The Cabinet and the Agencies: Towards Accountability in British Columbia*, A report to the Canadian Bar Association, B.C. Branch.

The threshold currently to initiate a Provincial Interest Reference is "if Cabinet considers it to be in the Provincial interest". Another point of clarification, is that this phrase was not likely intended to imply that Cabinet needed to make a pre-emptive assessment of the matter. Again the court has offered a reasonable interpretation: "Cabinet's assessment at this stage is not a determination that the *proposal* is itself in the Provincial interest. Rather, Cabinet's assessment is that the *referral*, itself, is in the Provincial interest."²¹ (emphasis added) To save time and possible debate of this point by those of us who do not generally refer to judicial interpretations, an amendment to clarify section 40 should be considered, perhaps along the lines of "if Cabinet considers a Provincial Interest Reference to be warranted...". The "Provincial Interest Reference" process could then be defined as the proposed process described in amended sections 40 through 44.

Informed Decisions

Decision-making itself is a challenge when dealing with important principles like agricultural land preservation with vast amounts of information that must be managed to be useful. Decisions in the public interest ought to be informed decisions. Therefore, a Provincial Interest Reference decision needs to be made using good judgement by those trained and experienced in making judgements in the public interest. These judgements must carefully consider information that is relevant and important.

The first commission for a Provincial Interest Reference was criticized in regard to its process. It was suggested that the commission was unable to be adequately informed in the time frame provided, and that the participants in the public hearing were not adequately informed. Further, a good resource was likely under-utilized in that first Provincial Interest Reference process - that of the ALC. The Agricultural Land Commission has an established reputation as the experts in information management related to the Agricultural Land Reserve. The Commission needs to be supported in the effective development of this role and more involved for effective Provincial Interest Reference processes in future.

I agree with and recommend amendments to the Act to confirm the following important suggestions for improved integrity and credibility of information in the process:

- have the ALC more actively involved, both initially and to review or comment on proposed changes;
- require a discussion paper to be prepared by the Environmental Assessment Board and available prior to any public hearing; and

²¹ The Court has interpreted the s.40 phrase broadly by allowing a party to be under "reconsideration" by the ALC if a Provincial Interest Reference is underway. *Farmfolk-Cityfolk Society BCSC A980330 08June98*

- avoid the logistical challenge for a single commissioner to deal with a Provincial Interest Reference by establishing the Environmental Assessment Board envisioned under the Act, with an amendment to provide for expertise in agricultural systems on the Board by including a role for a Provincial Agrologist.

Open and Accountable

Many suggestions were made to clarify the process and perception by the public of process integrity. The entire Provincial Interest Reference process can currently proceed without (a) briefing the public before a hearing on the facts, without (b) a report from the ALC, and without (c) public review of the Board's report before the Cabinet makes a decision based on the report.

Any (public) Provincial Interest process must be open to the public. The following three amendments support an open public process:

- a discussion paper prepared by the board to brief the public on the facts before a hearing; (also noted under Informed Decisions);
- a report from the ALC to the board, included in the discussion paper; and, (also noted under Informed Decisions); and,
- a public review of the Board's report before the Cabinet makes a decision based on the report.

Accountability refers to the need for a check and balance on all decisions affecting the ALR, including Provincial Interest Reference exclusions, inclusions, changes in designation or orders. Important considerations include the following:

Keeping Local Authorities and ALC Accountable.

Clarifying who can approach Cabinet with a request for a Provincial Interest Reference (see comments under Start-up, above) will provide a check to benefit all parties except as against a Cabinet order.

Keeping Cabinet Accountable.

Throughout the history of the Act, a major concern has been to help Cabinet make more informed decisions and to avoid the taint of improperly considered decisions, thereby increasing public confidence in the Reference process.

Building on the concept of the scale of "provincial interest", and the problem of repeated confusion with "regional interest" by decision-makers, I suggest a requirement that the public hearings be held in each of the six regions of the province. This would help to preserve the credibility and intent of a "Provincial" Interest Reference. The cost to the taxpayers would also help give pause to decision-makers who might otherwise lightly consider invoking

a Reference. In future, both the public hearing process and quality of information for decision-making could be improved by using an information technology approach to this public consultation problem through the internet, television or other means.

Stakeholders expressed concerns that Cabinet not act capriciously or ignore reasonable parameters for decisions.²² Even well-intentioned decision-makers sometimes need reminders of key considerations and a framework for decisions. I strongly recommend an amendment to require that any final decision of Cabinet under a Provincial Interest Reference be based on Provincial Interest as defined in the Act. For example, amend section 44 to read, "...may decide, *as in the Provincial Interest*, the outcome of the matter..."[additional phrase italicized].²³

In a similar sense, the Balancing Test should be part of the process and Cabinet accountability. If the test is clarified, (a) who is bound to consider these effects? and (b) can this test be varied by other requirements? Under the current Act, it is unclear how Cabinet could limit or extend either the scope of effects or factors themselves. Or how Cabinet can affect weighting or relative importance, by issuing guidelines or by giving directions through the terms of reference for the Board. The Act is also silent about the need for Cabinet to make its final decision in accordance with the Balancing Test.

For the benefit of Cabinet and Cabinet advisors, commissioners and the courts in determining what considerations should guide Cabinet decisions, and for greater integrity of the process, Cabinet decisions should also be made in the Provincial Interest using consistent factors.

Keeping the Land Owner Accountable

If a project is given a go-ahead in the Provincial Interest there are minimal safeguards that the project will proceed as "promised" or on the conditions required. The Act provides for a registered covenant under section 19 currently, and this could be used with a tool like an "exclusion contract" with an owner to provide the text of conditions for a covenant to be registered against title to the land. The ALC should also be supported to develop a variety of mechanisms in the support of agriculture in the province, whether exclusion contracts, or betterment recapture plans.

²² This concern was frequently raised in consultations; see also Hansard Debates, 1993; and Gall, Grant, and Rankin, 1981.

²³ There may be good reasons in law for the current state of affairs on this point. Earlier versions of the Act included an express right to appeal a decision of Cabinet on questions of law or jurisdiction. My sense is that it would also promote good faith to include the right of an aggrieved owner or municipality to refer a Cabinet order for review by court, if contrary to the then clarified objectives of the Act.



PART 4: Going Forward

■ ■ Recommendation Four: ■ ■ PROMOTE INTEGRATED LAND MANAGEMENT AND AGRICULTURAL INNOVATION

While I believe strongly in the preservation argument that is the basis for the Provincial Interest definition, there is also the need to address the broader context of agriculture and its future. Preservation in isolation will not be enough. The following recommendations address our need to move forward in support of agriculture and general resource management in the province.

- Promote Integrated Land Management: A BC Lands Trust
 - Establish a BC Lands Trust with an umbrella trust for agriculture so that a percentage of the billions of dollars of intergenerational wealth in the province can be put to good use as citizens are encouraged to donate their land or their cash assets to the Trust;
 - Improve integration of our land planning functions by combining the Agricultural Land Commission and the Forest Land Commission as well as generally broadening the Commission's mandate to incorporate the management of resource lands generally; and
 - Request that the ALC and municipalities in B.C. initiate a review of the so-called marginal agricultural lands (classes 4 and 5) through first developing agricultural and open space plans and then evaluating potential changes on the basis of agricultural capability, no net-loss and a no negative effects to adjacent agricultural lands.
- Promote agriculture reparation and innovation through a comprehensive agri-food policy that includes:
 - Creating an Agriculture Infrastructure Fund under the proposed B.C. Lands Trust to help provide a reasonable return on land investment and for growth opportunities through innovation in agriculture;
 - Supporting education and basic research partnerships; and
 - Encouraging the next generation of farmers with the possibility of land leases and capital loans through the Agricultural Infrastructure Fund.

SUPPORTING ARGUMENT

One of the challenges in conducting a consultative review on a topic as broad as Provincial Interest is that you may find that you are not asking the questions that really concern the stakeholders. More often than not stakeholders used Provincial Interest as a springboard to quickly move into related concerns which did not talk about words in a definition, but always indirectly supported the critical importance of agriculture as in the Provincial Interest.

In this part of the report, I am respectfully going beyond my specific terms of reference to summarize many thoughtful and good suggestions from stakeholders.

Land Equity Reparation

Thinking about the weighting of economic considerations and land values raised a very critical issue - the deplorable ignoring of farming families' investment in their land as their fundamental personal asset. The effect of preserving agricultural lands appears to have had the unintended effect of expropriating the potential for return on investment. The result is unintended hardship through loss of equity for financing, and loss of flexibility for families and retirement.

We must acknowledge the value of what farming families lost "in the Provincial Interest" of the ALR. We must renew the pride of a future in farming. For example, we should explore the creation of an Agriculture Infrastructure Fund. The fund could be bolstered by betterment recapture funds from changes to the ALR through exclusions or changes of use. The fund could support resident farmers and producers in growing the agricultural industry in the province and thus creating jobs as well as turning agriculture into an even stronger economic generator. An Infrastructure Fund could also support farmers in their roles as stewards in terms of habitat and general environmental protection.

Future Farmers

One of the questions that bothered me the most through the consultations was the thought that no one is going to want to farm in the future if we do not improve the conditions and rewards for farming. And if no one wants to farm, how do we retain and even increase our Provincial food security - home grown food? Farmers now do not urge their children to follow in their footsteps. We need an immediate strategy to encourage young people to be educated in the professions and activities involving agriculture. At the same time we need to find ways to encourage innovation in agriculture. People have ideas - how can their creative ideas be supported and implemented?

Precedents exist elsewhere for large scale land trusts in the public interest. Why not establish a Trust and Foundation for B.C. Lands? A specific umbrella trust for agriculture could be developed so that a percentage of the billions of dollars of intergenerational wealth

in the province could be put to good use as a support for "beginning" farmers and for innovation. The mission of such a proposed Trust and Foundation would be to "bring to the public and private sectors one agenda for the preservation and conservation of valued settlement and natural assets of lands in B.C."²⁴ Land or money that might flow under the agriculture umbrella could be used to support new farmers by allowing a land leasing arrangement and a stipend to get started. This process could begin with the leasing of existing crown land in the ALR.

This fund should also be available to people who have ideas about new projects or better ways to do something that might benefit agriculture. This could involve a variety of partners (private, non-profit and governmental) who might come together with a project. These funds would be targeted to people who are extending the business of agriculture through connecting it to other resource uses or business or entrepreneurial opportunities.

"The unique concept of a Trust for B.C. Lands and the companion Foundation will encourage and challenge the broad public to turn their passion for conservation into investment in a lands legacy for future generations."²⁵ This same passion runs deep in the public for preservation of agricultural lands - the Trust would facilitate many of the agricultural enhancement objectives of the Agricultural Land Commission and its Act.

Public Literacy About Agriculture

How do citizens find out about agriculture in the province? How much do people actually know about where their food comes from? How safe it is? Who produces it?

I strongly support the current initiative to develop the Provincial Agri-food Policy. The policy and implementation strategies should be the topic of a broad public debate and discussion with the citizens of the province. Food is, after all, one of the basics of life.

The public discussion around the Agri-food Policy is a good time to start a partnership promoting agricultural literacy. This partnership could improve the amount, type and quality of information available to consumers about food and agriculture. Programs like Agriculture in the Classroom are an important start at the kinds of promotion we need.

Another possibility worth exploring is the concept of Regional Centres for Sustainable Agriculture. These demonstration centres could focus on learning and research about our natural resource and human systems especially as applied to agriculture, food and small community development. Facilities for teaching, learning and research, housing, some commercial activities related to food

²⁴ Concept Paper, Trust for British Columbia Lands and Trust for the British Columbia Lands Foundation, Draft Two. 1994. Prepared by Tim Pringle for the Minister of Environment, Lands and Parks.

²⁵ Concept Paper: Trust for B.C. Lands, 1994.

production and a working landscape could be supported by a partnership involving citizens, educational institutions, municipal, regional, provincial and federal governments, and, industry. These centres could build on existing infrastructure and focus on combining the strengths or assets of each of the partners.²⁶

Another recommendation is to appoint a Provincial Agrologist to be the champion for agriculture in the province. The Provincial Health Officer and the Provincial Forester are important positions in other sectors for helping to coordinate information and collaboration.

The agricultural sector has incredible growth and job creation potential. Consumer demand for "whole foods" and organic foods combined with the possibility of sustainable agriculture initiatives can contribute to this growth. After all, the commodity is something we all need: food. It is not like resource extraction or even like fishing where the management of the resource is difficult to control. With much of agriculture, we can have some control over the crops we grow or commodities we produce and how successful we are in growing or producing them.

However, the amount of basic research funding (as opposed to applied industry-based research) that is supported by the Provincial government is not adequate to meet the need for innovative solutions in agriculture and food.²⁷ We have an incredible opportunity to expand an industry which is ranked as the third largest employer in the province, larger than mining or fishing.²⁸

The Agricultural Land Reserve and its Commission

The Agricultural Land Reserve remains a vital long-term land-use strategy for keeping our food options open. As such, the Reserve is an invaluable legacy of land, resource and wealth. As our society continues to experience rapid change, both the ALR and agriculture continue to be under threat even from the legislation developed to sustain it. How we as a province choose to respond will largely determine the answer to who will grow our food.

There continues to be mis-information about the ALR and the ALC. One person even suggested that the boundaries of the ALR were just decided with a broad felt pen! In fact, the Canada Land Inventory provided a solid background for boundary decisions. Granted, legal straight lines laid over the natural landscape's topography will create pockets that should be either "in" or "out" of the reserve. However, the Commission works to modify and adjust boundaries where appropriate.

²⁶ The idea of Regional Centres for Sustainable Agriculture is part of the vision for the UBC Faculty of Agricultural Sciences and its efforts to connect to the greater community in B.C.

²⁷ Agri-Food Research and Technology Transfer Capacity in Canada; Canadian Agricultural Research Council; <http://www.carc-crac.ca/english/weave.htm>.

²⁸ B.C. Ministry of Agriculture and Food - <http://www.agf.gov.bc.ca/educate/profile.htm>.

This Review presented stakeholders with an opportunity to raise general concerns and frustrations about the Agricultural Land Commission, its process, its timing and its apparent lack of regional understanding. Concerns were expressed around the role of the ALC General Manager and Chair. Should one person hold both positions? Some stakeholders maintained that the Commission should be more pro-active. Others made the case for a 25 year review.

It is important to say that there is also a good deal of support for the role of the ALC and the good work that it has accomplished over the 25 years. Looking back at its inception and thinking about the need for integrating rural planning and land management, I suggest that we consider returning to the initial "Land Commission" structure.²⁹ A Provincial Land Commission was established in 1973 whose objectives were to preserve agricultural land for farm use, encourage family farms, and preserve park or green-belt land. By 1979, the Commission had its scope reduced to agricultural lands only and the Act became the Agricultural Land Commission Act. We also now have a Forest Land Reserve, a Forest Land Commission and a Land-Use Co-ordination Office.³⁰ The Forest Land Commission and the Agricultural Land Commission both have mandates for managing "cultured" resources which need to be co-ordinated with broader planning initiatives. Perhaps it is time to return to a broader concept of a "Land Commission" with powers and resources to actually do broader full-cost accounting or multiple accounts analysis as part of its decision-making processes. This Commission should be provided with an appropriate budget to maintain a good information base, and promote good decisions for our land legacy in the province.

Urban Countryside - Rural Metropolis

Managing the pressure of urban areas to expand will be increasingly critical to avoid serious conflicts. In this Review, many stakeholders were adamant that urban dwellers see agricultural land simply as something green to look at - a visual amenity. Certainly agricultural uses include all sorts of sensory stimulation: smells, noise, pollen and large machines on roads. Planning for this transition zone and programs of public education can promote the better understanding of agriculture. The need for food production and habitat protection must be a priority in the next decade.

²⁹ Land Commission Act, SBC 1973, c.46 s. 7.

³⁰ Land-Use Coordination Office (LUCO) was created in January 1994 to define a corporate vision for land use planning in British Columbia and to oversee, coordinate, evaluate and report to Cabinet on ministries' work to deliver the provincial land-use strategy.

Even in places such as Delta where the impressive Delta Farmland and Wildlife Trust is in place to help mediate between agricultural values and habitat values, it is not easy. A combination of legislation, education and physical planning and design is required. The City of Kelowna has prepared an agricultural plan and many other municipalities are integrating agricultural planning in their Official Community Plan processes.³¹

A number of other countries have creative initiatives around their agricultural sectors. In June 1996, the Swiss ratified a new article in their Constitution setting forth the tasks of agriculture:

- 1) supplying the population with guaranteed food supplies;
- 2) preserving the natural basis of existence and maintaining the countryside; and,
- 3) keeping the population geographically decentralized. This new article requires production to be both sustainable and market-oriented, acknowledging that agriculture is multi-functional.

The development of a British Columbia Agri-Food Policy will be a step in the right direction. In terms of easing the tension between the urban (generally housing) and rural (generally intensive agriculture). We should think more about the edges between the two uses. This needs coordinated efforts at the local and regional levels involving agricultural planning and open-space planning (including the total landscape of the area - such as forests, parks, riparian lands). We need to think about community supported agriculture and agri-tourism enterprises that combine a variety of activities to provide a transition zone.

While there is concern for keeping the 3% of our land that is prime agricultural land in the ALR "preserved", it is equally important that we ensure that appropriate planning and design principles are in effect both inside and outside the ALR. The ALC has produced a workbook for agricultural planning.³² This is an excellent start towards improving the design decisions on agricultural lands. The municipality of Delta is also working on important bylaws to encourage citizens to be sensitive to their location in a rural community and within an agro-ecosystem.

Careful and integrated planning of our rural and agricultural landscapes is a key component to supporting agriculture and agriculturally-based communities. "Saving farmland is not enough when farming itself is only marginally profitable."³³ Experience in the United States indicates that both farmland protection measures and economic development measures are needed to bolster the future prospects of agriculture as an industry. In Hartford County, Maryland, for example, an agricultural planner was put in charge of working with farmers and conservationists to

31 City of Kelowna. 1998. *City of Kelowna Draft Agriculture Plan, July 1998*. Kelowna, BC.

32 Provincial Agricultural Land Commission. *Planning for Agriculture*, Smith B.E.; 1998

33 Daniels, T., Bowers, D. *Holding our Ground, Protecting America's Farms and Farmland*. (Island Press, Washington, D.C., 1997).

develop a comprehensive program for helping farmers stay profitable. Ideas ranged from streamlining of local regulations to establishing a county value-added production centre.³⁴

The last point is one of support for the integrated programs which our government has undertaken to address the critical issues of land-use management such as our growth management strategies. Such initiatives need to be tightly woven into consideration of our cultural landscapes of agriculture and forestry as well as consideration of the relationship between cities and the countryside. We need to seek creative solutions that go beyond our typically rigid and linear thinking. Instead we must support effective, sustainable and economic solutions for maintaining the resources we have in this wonderful part of the world for living and working.

In conclusion

This Review forced me to look at the heart of good government; what effect will words in a piece of legislation have on our lives and livelihoods, and those of our children? In this case, the stakes are high-the limited, non-renewable arable land base of the province and the life of our communities.

Our Review consultations affirmed that land-use management questions evoke strong feelings - but these are often fanned by uncertainty or misunderstanding. Greater certainty of process always helps - if only to focus discussions for further improvements.

I thank the Minister for the opportunity to work on this Review. Many thanks go to those who generously gave their time, energy and thoughtful comments.

Without the courage to hold firm, with stakes in the ground, there will be no incentive to better manage our land base in the face of competing uses. We must halt the slow, but steady erosion of our agriculture and food resources, and support our varied agricultural industries. As a forward thinking society, we must dig in, take responsibility, and make sure that future generations have a vibrant agricultural land base.

Respectfully submitted,



Moura Quayle
Dean, UBC Faculty of Agricultural Sciences
September 25, 1998

³⁴ W.R. Holm and Assoc. 1998. *Agricultural Land Reserve in the Okanagan: Renewing the Public Policy Prescription*. Bowen Island, B.C.

STAKES IN THE GROUND



APPENDICES

APPENDIX A — STAKEHOLDER CONSULTATION SUMMARY

1. Stakeholder Organizations Consultations

DATE	ORGANIZATION	AFFILIATION
14-May-98	THE AGRICULTURAL LAND COMMISSION MEETING PARTICIPANTS (Burnaby) Miller, Kirk Plotnikoff, Jim Smith, Barry	Agricultural Land Commission Agricultural Land Commission Agricultural Land Commission
08-Jul-98	MEETING PARTICIPANTS (Burnaby) Bakker, Janna Glover, Julie Horn, Gus Huscroft, Cheryle Jones, Peter Miller, Kirk Plotnikoff, Jim Taylor, David Thompson, Maureen	Agricultural Land Commission Agricultural Land Commission
08-Jul-98	Written Submission	
13-Aug-98	Written Submission	
26-Aug-98	Written Submission	
20-May-98	B.C. Agriculture Council MEETING PARTICIPANTS (Aldergrove) Bakker, Bruce DeJong, Steve Holbek, Niels Husch, Russell Janzen, Marcus Nickel, Ray Thomson, Steve Torrence, Steve	B.C. Horticulture Coalition B.C. Milk Producers Association, Surrey F.A.R.M. Community Council, Campbell River B.C. Agriculture Council, Kelowna B.C. Pork Producers Association, Abbotsford Council of Marketing Boards, Abbotsford B.C. Agriculture Council, Kelowna B.C. Horticulture Coalition
21-Aug-98	Written Submission	
09-Jul-98	BC Institute of Agrologists, MEETING PARTICIPANTS (Burnaby) Bean, Garth Holm, Wendy R. Hughes-Games, Geoff Owen, Lorne	BC Institute of Agrologists, Abbotsford W.R. Holm & Associates, Bowen Island BCIA & Ministry of Agriculture and Food, Abbotsford Ministry of Agriculture and Food, Abbotsford, BC
26-May-98	Written Submission	
27-May-98	Written Submission	
29-May-98	Written Submission	
24-JUN-98	Urban Development Institute MEETING PARTICIPANTS (Kelowna) Balfour, Dell Funk, Keith Gaucher, Grant Jacobs, Mike Turton, Mark	Taican Enterprise Corp., Kelowna New Town Planning Services, Kelowna Four Seasons Commercial Realty, Kelowna Dilworth Mountain Estates, Kelowna Apex Sand & Gravel, Kelowna

Stakeholder Organizations Consultations (continued)

DATE	ORGANIZATION	AFFILIATION
09-Jul-98	Union of B.C. Municipalities FOCUS GROUP PARTICIPANTS (Richmond) Ranta, P.A. John Boname, Pat Hawley, Bonny Thorlakson, Steve Hobson, Robert Lornie, Jim	Mayor - Cache Creek Mayor - West Vancouver Councillor - Houston Mayor - Fort St. John Central Okanagan Regional District Mayor - District of Campbell River
10-July-98	EXECUTIVE MEETING PARTICIPANTS Mayor Steve Wallace Mayor John Ranta Mayor Steve Thorlakson Director Jim Abram Mayor Gillian Trumper Councillor Lynne Kennedy Councillor Robert Balcaen Director Ann Hancock Councillor Phillip Berukoff Mayor Pat Boname Mayor Jeannette Townsend Councillor Russ Gerard Mayor Jim Lornie Chairperson Hans Cunningham Councillor Bonny Hawley Chairperson Robert Hobson Mayor Corinne Lonsdale Councillor Patricia Wallace	Quesnel, President Cache Creek, First Vice-President Fort St. John, Second Vice-President Comox-Strathcona RD, Third Vice-President Port Alberni, Past President Vancouver Representative McBride, Village Representative Okanagan-Similkameen RD, Electoral Area Rep. Salmo, Assn. of Kootenay & Boundary Municipalities West Vancouver, Lower Mainland Municipal Assn. Valemount, North Central Municipal Association Kamloops, Okanagan Mainline Municipal Assn. Campbell River, Assn. of Vancouver Island Municip. Director at Large, Central Kootenay RD Houston, Director at Large Central Okanagan RD, Director at Large Squamish, Director at Large Kamloops, Director at Large
14-Jul-98	Urban Development Institute MEETING PARTICIPANTS (Vancouver) Bekhuys, Timothy Hodgins, Sean Keenan, David Marr, C.L. McGuinness, Bill Shier, Randall A. Zeitner, John	EBA Engineering Consultants Ltd. Century Holdings Genstar Development Company Genstar Development Company Polygon Ledingham McAllister Properties Ltd. Civic Consultants Engineering Services
15-Jul-98	Greater Vancouver Regional District Strategic Planning & Transportation Committee Chair Mayor Beth Johnson Vice Chair Councillor Gordon Price Director Mayor Pat Boname Director Mayor Brenda Broughton Councillor Ernie Crist Director Mayor Carl Durksen Councillor Mayor Marlene Grinnell Mayor Greg Halsey-Brandt Director Mayor Rick Marusyk Director Mayor Doug McCallum Director Councillor Lee Rankin Director Mayor John Scholtens Director Mayor Lou Sekora Councillor Barbara Sharp Director Mayor Helen Sparkes Director Mayor Hardy Staub Director Mayor Len Traboulay	The Corporation of Delta City of Vancouver District of West Vancouver Village of Lions Bay District of North Vancouver District of Maple Ridge City of Langley City of Richmond City of Port Moody City of Surrey City of Burnaby Township of Langley City of Coquitlam City of North Vancouver City of New Westminster City of White Rock City of Port Coquitlam

02-Jul-98	Written Submission	H. Kellas, Strategic Planning & Transportation Committee
15-Jul-98	Written Submission	H. Kellas, Strategic Planning & Transportation Committee
13-Aug-98	Written Submission	G. Puil, Greater Vancouver Regional District

2. B.C. Regional Consultations

DATE	MEETING PARTICIPANTS	AFFILIATION
Dawson Creek Region, Dawson Creek, BC 16-Jun-98	Berge, Garnet Critchler, Irmgard Goodings, Karen Haab, Chris Hansen, Sue Letersky, Jim Lynch, Richard Martin, Sam McFarland, Brent Querin, Barb Strasky, Rod Watson, Allen	Conservation Society, Dawson Creek Grain Producer, Taylor Peace River Regional District, Cecil Lake Dairy Producer, Fort St. John Honey Producer, Farmington Economic Development, Dawson Creek P&H - Grain Processing, Valleyview, AB Beef Producer, Montney Fahler Alfalfa Limited, Fahler, AB Grain Producer, Dawson Creek Grain Producer, Dawson Creek Grain Producer, Dawson Creek
Creston Region, Creston, BC 19-Jun-98	Baumann, George Brynne, Abra Cayo, Lyn Colonel, Gail Doggart, Mike Hug, Nancy Hutchinson, Bill Roht, Don Street, Faye Sutcliffe, Art	Organic Farmer, Kaslo Kooteney Co-Op, Nelson Moving Mountains Resources, Winlaw Piper Farms Ltd., Creston Interior Reforestation Co. Ltd., Cranbrook Fruit Marketer, Creston, Administrator -Town of Creston Sustainable Agriculture Foundation, Winlaw Ostrich Farmer, Jaffray Dyking, Creston
Williams Lake Region, Williams Lake, BC 22-Jun-98	Dodge, Muriel Doherty, Paddy Fereira, Oswald Houghton, Joanne Huffman, Grant Noullett, Wendy Veeken, Peter	Economic Development, Quesnel Dragon Mountain Farms, Quesnel Cariboo Regional District, Williams Lake Consumer/Food Security, Mackenzie Cariboo Communities Coalition, Williams Lake Meat Processing, Prince George Poultry & Egg Producer, Prince George
Kelowna Region, Kelowna, BC 24-Jun-98	Cartier, Lee Hainle, Sandra Jackson, Roy Poonian, Thal Speitelsbach, Margaret Sperling, Velma	Okanagan University College, Kelowna Hainle Vineyards Estate Winery, Peachland Napier Lake Ranch, Kamloops Skyworld Financial, Kelowna Egg Producer, Kelowna Pioneer Country Market, Kelowna
Nanaimo Region, Nanaimo, BC 03-Jul-98	Archer, Anthea Christison, Ian Craven, David Galey, Judy Holbek, Niels Kaye, John Mockler, Michael Price, Lyle Thompson, Judy Venturi, Marilyn	Sheep Farmer & Agro Forestry, Duncan Eggs, Beef & Potato Producer, Cobble Hill Hog Producer, Shawnigan Lake Potato Producer, Victoria Oyster River Research Farm, Campbell River Adera Nurseries Ltd., Saanich Thrifty Foods, Saanichton Port Farms Ltd., Port Alberni Poultry Producer, Sooke Winery, Cobble Hill

Abbotsford Region, Abbotsford, BC
07-Jul-98

Hills, Klara
Jones, Bevan
Liao, Cindy Chun
Mykle, Arne
Wheatley, Alan

Watershed Alliance of Chilliwack, Chilliwack
Chai-Na-Ta Farms Ltd., Kamloops
Spring Mushroom Farm Ltd., Aldergrove
Poultry Producer, Langley
International Association of Machinists, Burnaby

3. Individual Consultations and Submissions, Vancouver, BC

NOTE: "*" designates written submission; "*" designates multiple submissions.

NAME	AFFILIATION	DATE
Barbolet, Herb	Farm Folk/City Folk	Vancouver, BC
.	.	13-May-98
.	.	27-May-98 *
Bauer, Sandra	District of Squamish	Squamish, BC
Bomford, Larry	Agricultural Workforce Policy Board	Victoria, BC
.	.	17-Aug-98 *
Bomke, Dr. Art	Soil Science, UBC	Vancouver, BC
.	.	31-May-98 *
Bose, Mike	City of Surrey	Surrey, BC
Cowie, Art	Planning Consultant	Vancouver, BC
.	.	21-Jul-98 *
.	.	19-Aug-98 *
.	.	03-Jun-98
.	.	21-Jul-98
Dyson, Russell	Individual	Nanaimo, BC
.	.	28-Jul-98 *
Fenton, Lyle	District of Squamish	Squamish, BC
Fortin, Dr. Marie-Claude	Soil Science, UBC	Vancouver, BC
Galey, Judy	Galey Bros. Farms	Victoria, BC
Garland, Dr. Maureen	Faculty of Agricultural Sciences, UBC	Vancouver, BC
Glover, Julie	Individual	Vancouver, BC
Grant, Al & Sue	Sage Farm	Rock Creek, BC
Grant, Gale	B.C. Farm Women's Network	Lower Nicola, BC
Hart, Kim	Horsemen's Benevolent & Protective Association of B.C.	Vancouver, BC
Hills, Klara	Watershed Alliance of Chilliwack	Chilliwack, BC
Hoberg, Dr. George	Forestry, UBC	Vancouver, BC
Hodgins, Sean	Century Holdings	Vancouver, BC
Holbek, Niels	Oyster River Research Farm	Campbell River, BC
.	.	15-May-98 *
Holm, Wendy R.	W.R. Holm & Associates	Bowen Island, BC
.	.	15-Aug-98 *
Hutchinson, Bill	Administrator - Creston	Creston, BC
James, Mavis M.	Individual	Vancouver, BC
Jamieson, Bob	Rancher, Consultant	Ta Ta Creek, BC
Jones, W.L.	Jones Nurseries Ltd.	Richmond, BC
Kaye, John	Adera Nurseries Ltd.	North Saanich, BC
Kitts, Dr. David	Department of Food Science, UBC	Vancouver, BC
Lane, William T.	Former Agricultural Land Commission	Vancouver, BC
.	.	02-Sep-98 *
.	.	08-Jul-98 *
.	.	22-May-98
Larkin, Lee	Ryder Lake Representation Committee	Sardis, BC
.	.	14-Jul-98 *
LeBlanc, Gerald	Cowichan Valley Regional District	Duncan, BC
Lekstrom, Blair	Mayor - Dawson Creek	Dawson Creek, BC
Les, John	Mayor - Chilliwack District	Chilliwack, BC
Malenstyn, John	Former ALC Commissioner	Chilliwack, BC
Marshall, Fred	Marshall Forestry Services	Midway, BC
Matthews, Dr. Ralph	Sociology, UBC	Vancouver, BC
Milligan, Marion M.	LBU Sheep Farm	Delta, BC
Mooney, Professor Patrick	Landscape Architecture, UBC	Vancouver
.	.	23-May-98 *
.	.	25-May-98 *
.	.	03-Jun-98 *
.	.	26-Aug-98 *
.	.	10-Jul-98 *
.	.	16-Jul-98 *
.	.	15-Aug-98 *
.	.	15-Jun-98 *
.	.	19-Jun-98 *
.	.	20-Aug-98
.	.	29-Jun-98 *
.	.	22-May-98
.	.	15-May-98 *
.	.	03-Jun-98

Individual Consultations and Submissions (continued)

NOTE: "*" designates written submission; "•" designates multiple submissions.

NAME	AFFILIATION		DATE
Murray, Anne	Federation of British Columbia Naturalists	Vancouver, BC	Jun-98
Murray, Cameron	Individual	Vancouver, BC	01-May-98 *
Nichols, Thomas	Save Our Parkland Association	Vancouver, BC	27-Aug-98 *
Milburn, David G.	Horsemen's Benevolent & Protective Association	Vancouver, BC	01-Jun-98 *
Paterson, Professor Douglas	Landscape Architecture, UBC	Vancouver, BC	22-Jul-98
Paton, Ian	Paton & Associates, former ALC	Delta, BC	21-May-98
•	•	•	01-Jun-98 *
•	•	•	07-Jul-98 *
Porter, Doug	Individual		22-May-98 *
Perry, Dr. Thomas L.	Department of Medicine, UBC	Vancouver, BC	27-Aug-98 *
Price, Lyle	Port Farms Ltd.	Port Alberni, BC	09-Jul-98
Pue, Professor Wes	Law, UBC	Vancouver, BC	10-Jun-98
Putnam, Norman	Individual	Victoria, BC	27-Jul-98 *
Rees, Dr. Bill	Community & Regional Planning, UBC	Vancouver, BC	22-May-98
Rowland, Craig	Listraor Developments Inc.	Vancouver, BC	02-Jul-98 *
Roycroft, Rob	Planning Institute of B.C.	Richmond, BC	31-Jul-98 *
Runka, Gary	Land Sense Ltd.	Burnaby, BC	20-May-98
Schmidt, David	Individual	Chilliwack, BC	12-Aug-98 *
Schreier, Dr. Hans	Soil Science, UBC	Vancouver, BC	03-Jun-98
Schrybman, Steve	West Coast Environmental Law Association	Vancouver, BC	18-Aug-98 *
Simard, Bruce	Peace River Regional District	Dawson Creek, BC	18-Aug-98 *
Smith, Gale	B.C. Home Economics Association	Vancouver, BC	13-Aug-98 *
Sorensen, Al	Horsemen's Benevolent & Protective Association	Vancouver, BC	01-Jun-98 *
Stace-Smith, Richard	Save Our Parkland Association	Vancouver, BC	25-Jun-98 *
Strachan, Graham	Individual	Kamloops, BC	20-Jul-98 *
Street, Faye	Individual	Jaffray, BC	19-Jun-98 *
Tennant, Dr. Paul	Political Science, UBC	Vancouver, BC	22-May-98
Turner, A.D.	Individual	Surrey, BC	03-May-98 *
•	•	•	04-May-98 *
•	•	•	19-Aug-98 *
Whetham, Bob	Regional District of East Kootenay	Cranbrook, BC	21-Aug-98 *
Wiens, Henry	Promontory Ratepayers Association	Chilliwack, BC	15-Jul-98 *
Wilcox, John	Duck Creek Farm	Salt Spring Island, BC	07-Jul-98 *
Withler, Carl	Ministry of Forests; Boundary District	Grand Forks, BC	26-Jun-98 *
Zimmerman, Kathleen	B.C. Horticultural Coalition	Surrey, BC	25-Aug-98 *

4. Review Workshop, Vancouver, BC

NOTE: All individuals from organizations or volunteering submissions prior to July 15 were invited to the Workshop, plus participants in the Provincial Agri-Food Policy program.

DATE	WORKSHOP PARTICIPATION	AFFILIATION
	Alexander, Mark	Ministry of Agriculture and Food, Victoria
	Barbolet, Herb	Farm Folk/ City Folk, Vancouver
	Bean, Garth	BC Institute of Agrologists, Abbotsford
	Bomford, Larry	Agricultural Workforce Policy Board, Victoria
	Brink, Vernon C.	Save Our Parklands Association, Vancouver
	Cowie, Art	Eikos Planning Inc., Vancouver
	Duhaime, Keith	Facet Decision Systems, Vancouver
	Glover, Julie	Agricultural Land Commission, Burnaby
	Holbek, Niels	Oyster River Research Farm, Campbell River
	Holm, Wendy R.	W.R. Holm & Associates, Bowen Island
	Horn, Gus	Agricultural Land Commission, 100 Mile House
	Hughes-Games, Geoff	BCIA and Ministry of Agriculture and Food
	Husch, Russell	BC Fruit Growers' Association, Kelowna
	James, Mavis	Individual, Vancouver
	Jeske, Wendy	Councillor - The Corporation of Delta, Delta
	Jones, Peter	Agricultural Land Commission, Burnaby
	Karlsen, Erik	Ministry of Municipal Affairs, Victoria
	Knight, Nancy	GVRD Strategic Planning Department, Vancouver
	Knopp, Denis	B.C.'s Wild Heritage, Chilliwack
	Larkin, Lee	B.C.'s Wild Heritage Plants, Chilliwack
	Lauer, Frank	BC Fruit Growers' Association, Kelowna
	LeBlanc, Gerard	Cowichan Valley Regional District, Duncan
	Lee, Wendy	City of Abbotsford, Vancouver
	Les, John	Mayor - District of Chilliwack, Chilliwack
	Lucas, Glen	BC Fruit Growers' Association, Kelowna
	Moonen, John	Pattison Group, Burnaby
	Murray, Cameron	Topo Graphics, Vancouver
	Owen, Lorne	Ministry of Agriculture and Food, Abbotsford
	Poonian, Thal	Skyworld Financial, Kelowna
	Roht, Don	Sustainable Agriculture Foundation, Winlaw
	Schmidt, David	Country Life in B.C., Chilliwack
	Smith-McGregor, Lois	B.C. Home Economics Association, North Vancouver
	Stott, Joe	GVRD Strategic Planning Department, Vancouver
	Taylor, David	Agricultural Land Commission, Burnaby
	Thompson, Maureen	Agricultural Land Commission, Burnaby
	Wheatley, Alan	International Association of Machinists & Aerospace Workers, Burnaby
	Wiens, Henry	Promontory Ratepayers Association, Chilliwack
	Zimmerman, Kathleen	BC Horticultural Coalition, Surrey
22-30-Aug-98	Workshop Feedback Submissions [35]	Review Workshop, Vancouver

5. Consultation Comment Overview

The following indicates the range of comments received during the consultation process, both as an indication of the difficulty of defining the problem, and of the importance of opening a process with many concerned and committed participants.

- It is not about a clause but about setting a framework for government and the ALC.
- We need to consider the other issues around the clause.
- There is not the need to define the clause.
- Remember that BC has doubled its range of commodities since 1973.
- The expansion in the number of BC commodities has been mostly a soil bound expansion.
- We need to talk about agricultural worth instead of capability.
- If there is a political will, it will find a way.
- It is naïve to think that the government is committed to the ALR.
- We need a review of the ALR.
- Agriculture is unique, it cannot be turned on & off like a light switch.
- The NAFTA & WTO agreements have subverted the ALR as an economic system.
- We are changing from a pro-technology to a pro-ecological society.
- Provincial interest must include generational interests.
- BA agriculture is a patchwork of land: an archipelago.
- The ALR is precious: no means No!
- Agricultural land is not singularly a land use, but rather our commonwealth and community inheritance; its quasi-sacred.
- Keeping the options open: it is about options not zoning.
- The ALR is bigger than all of us, it is the provincial interest.
- BC has so little agriculture that its supplier infrastructure is already in trouble.
- Without a land base, agriculture is closed down, not moved to another location.
- Why do farmers have to play by the rules while private corporations can get away with removing land?
- We need to plan for agriculture.
- Farmers are becoming an endangered species!
- Where is the future of farming when the kids no longer are interested?
- Corporate players are taking over owing to the high costs involved in agriculture.
- Young farmers cannot get the financing they need to buy the land.
- A land use issue should not be allowed to be political!
- Local government needs to have a voice in the process.
- Land-use decisions need to fit the local context.
- Big industry only sees the ALR as good for future housing.
- It's time for a review of the ALR after 25 years!
- We need good information on the ALR: government is always sitting in weeds.
- Cabinet should not be involved; they have leather lungs with a silver tongue.
- But we need to look at the other side: where are the people going to live?
- Grand Prairie paved their agricultural lands and got rich, why can't we?
- The ALC is inflexible, illogical, and a waste of time.
- Why didn't the Island Highway have a provincial interest review?
- We need a pro-active approach to stabilize the ALR.
- The ALR is killing the farmers of BC.
- We are starving the Canadian farmer so that urban people can ignore us.
- Government made this ALR framework – freezing the land – but have taken away the supports to make it work.
- Nothing going to change until we know hunger in the cities.
- Give ranchers a free market to do what needs to be done to save the industry in BC.
- This cabinet does not inspire trust or confidence.
- ALC needs to be an advocate for agriculture.
- What would dissolving the ALR accomplish but a single generation of rich farmers who wouldn't reinvest in agriculture.
- Agriculture needs to be integrated with other sectors
- The ALR has become stagnant.
- Defining provincial interest binds us to the present and blinds us to the future.
- Who is the ALR trying to protect; certainly not the farmer.
- The ALR maps are out of date.
- The whole system is flawed; it's all smoke and mirrors.
- No accountability or regional voice with the ALC.
- We ask farmers to steward, but other don't: why?
- The ALR has fallen behind the times, it's out of context.
- BC government doesn't even buy BC grown products.
- Why are parks seen as a public good, but agriculture isn't?
- A review of the ALR is long overdue.
- Six Mile case reveals agriculture's bad state of health : its withering even on the best lands.
- The ALR has constrained agriculture's development
- The ALR is a confirmation of the provincial interest.
- ALR has bled capital out of farms that have been built up over generations.
- The basic principle is still to preserve farmland: we cannot see tomorrow.
- The ALR is not here for only the current farmer, but for the land long-term.
- How are communities going to grow if they cannot expand into the ALR?
- Agriculture is changing: do we need the land?
- We have not even utilized the current ALR, so why preserve it all?
- People are ignorant of where food comes from.
- Provincial interest needs to be a sober second thought, a safety valve.
- Process is the key, not the definition.
- Cabinet needs to be an appellate body with no override.
- Need a way of validating a proposal's claims.
- Urban renewal has been delayed owing to ALR exclusions.
- Regional Districts need to have a say in the ALR.
- Original ALR mapping needs to be redone;
- The system is not broken: no matter what the definition, it will be challenged.
- Defining "Provincial interest" leaves the Act and therefore agricultural land vulnerable to legal challenge, constant tinkering, and possible changing through political pressure and continuing land speculation; yet not defining "Provincial interest" leaves a perception of "weasel words" which leave agricultural lands vulnerable to short-sighted political overriding, legal challenge, manipulation through political pressure, and continuing land speculation and development;
- Concern for fair cost and time-effective resolution of disputed applications
- General lack of resources for ALC information and analysis to ensure informed decision-making
- Lack of information of other precedents
- Lack of updated agricultural-land classification for a finer-grade of detail, including ALR boundary refinement, and treatment of isolated parcels of agricultural land
- Lack of updated "net benefit to agriculture" application criteria

6. Stakeholder Consultation: Note

The above lists are our best effort to confirm the many who participated, from all corners of the province. I apologize to anyone who may be wrongly associated with an affiliation, or worse, left out or name misspelled. Please advise me with these or any other changes or corrections.

Many individuals took the time and energy to bring their concerns and perspectives to me. Frequently they reflected the views of their affiliated organizations which we had not been able to formally consult. For future reference, I would add these individuals and their affiliated organizations to the lists for consultations as stakeholders in the future of our rural lands. In addition, several important organizations in the province should be consulted on these matters as bodies which have a history of good work on public policy matters, including, The Real estate Foundation of BC; Boards of Trade; Chambers of Commerce; Trade Unions, such as the BCGEU; Business Council of B.C.; and Teachers Federation; among others.

I expect that through the diversity of individuals we consulted, some have memberships in these organizations, and some have expressed views consistent with those of such organizations. However for a more comprehensive public participation process, invitations to such organizations, as well as general public notices, are advised.

APPENDIX B — LEGISLATIVE HISTORY

This is a brief summary of the history of land commission legislation in British Columbia, followed by a summary of recent policies and guidelines to provide an overview of the legislative documentation involved.

Please refer to original sources to confirm summary statements and current status.

BC LEGISLATURE

- 1962:** The Lower Mainland Regional Planning Board published *Land for Farming*, an analysis of the agricultural landbase problem. A regional plan was developed the following year, designating over half the Lower Fraser Valley for farming.
- 1967:** The province expropriated over 1600 hectares of prime farmland for the Roberts Bank Superport.
- 1971:** The BC Department of Agriculture recommended a farmland preservation program for the Fraser Valley, using the Canada Land Inventory data to identify prime farmlands. Premier Bennett moved instead to establish a greenbelt fund.
- 1972:** The preservation of farmland galvanized the 1972 provincial election. The Conservatives promised, "long range and systematic planning... so that the best agricultural land is in fact used for agriculture." The Liberals advocated the establishment of an Agricultural Lands Trust to acquire development rights to farmland. The New Democratic Party proposed a "land zoning" program to set aside areas for agricultural production as well as a "land bank" to purchase existing and rezoned agricultural land for lease to farmers on a long-term basis.
- 1973:** The new NDP government put forward a proposal almost identical to the 1971 program, except that it was to apply to the entire province, not just the Fraser Valley. The Land Commission Act, SBC 1973, c.46, included s.7 which set out the objects and powers of the newly established Provincial Land Commission (see attached).
- 1977:** The return of the Socred government led to the Land Commission Amendment Act, 1977, (SBC 1977, c.73). The scope of the Commission was significantly reduced (see section 5, attached).
- 1979:** In the 1979 consolidation of the Revised Statutes of British Columbia, the Act was renamed the Agricultural Land Commission Act (RSBC 1979, c. 9.)
- 1980:** Housekeeping amendments for the better administration of the Act (Miscellaneous Statutes Amendment Act, SBC 1980, c.36).
- 1992:** Housekeeping amendments for the co-ordination with related food policy legislation (Agriculture, Fisheries and Food Statues Amendment Act, 1992.)
- 1993:** The Cabinet Appeals Abolition Act, SBC 1993, c.38, introduced what is now the Provincial Interest Reference sections 40-44 in the Act.
- 1994:** The Agricultural Land Commission Amendment Act, 1994, was passed as a twenty-year review of the legislation, to expand the objects of the commission to include an advocacy role for agriculture, and to introduce procedural amendments intended to restore credibility and integrity in the Act.
- 1996:** The 1996 consolidation of the Revised Statutes of British Columbia.

Policies and Guidelines

as am 1997 **ALC Handbook, (Table of Regulations, Orders and Policies, attached)**
206 **Cabinet Guidelines for Invoking Provincial Interest under section 40.**

Attached are the following excerpts for more detailed reference:

- Land Commission Act, SBC 1973, c.46 s. 7 Objects;
- Land Commission Amendment Act, SBC, c.73, s. 5 (amending Objects);
- Agricultural Land Commission Act, RSBC 1996 c.10, ss. 1, 20 and 40-44;
- Agricultural Land Commission Handbook, Table of Regulations, Orders and Policies (as amended 1997); and
- Guidelines for Invoking the Provincial Interest under s. 40 of the Agricultural Land Commission Act, 1998.

APPENDIX B —

I. Legislative Excerpts

The following excerpts are provided for general reference in the context of provincial interest in the Agricultural Land Commission Act, RSBC 1996. Please confirm all references and current status with original and current sources.

LAND COMMISSION ACT, S.B.C 1973, c.46.

- Interpretation* 1. In this Act, unless the context otherwise requires,;
- * * *
- “farm use” means an occupation or use of land for bona fide farm purposes, including, without limiting the generality of the foregoing, husbandry of the land and plants and animals thereon, and any other similar activity designated as farm use by the Lieutenant-Governor in Council
- * * *
- Objects and Powers* 7. (1) It is the object of the commission to,
- (a) preserve agricultural land for farm use,
 - (b) encourage the establishment and maintenance of family farms and land in an agricultural land reserve, for a use compatible with the preservation of family farms and farm use of the land;
 - (c) preserve greenbelt land in and around urban areas;
 - (d) encourage the establishment and maintenance of land in a green belt land reserve for a use compatible with the preservation of a green belt;
 - (e) preserve land bank land having desirable qualities for urban or industrial development and restrict subdivision or use of the land for other purposes;
 - (f) encourage the establishment and maintenance of land in a land bank reserve for a use compatible with an ultimate use for industrial and urban development;
 - (g) preserve park land for recreational use;
 - (h) encourage the establishment and maintenance of land in a park land reserve for a use compatible with the ultimate use for recreation; and
 - (i) advise and assist municipalities and regional districts in the preparation and production of the land reserve plans required for the purpose of this Act;
- * * *

LAND COMMISSION (AMENDMENT) ACT, S.B.C 1977, c.73.

- Provincial Agricultural Land Commission* 3. Section 2 is repealed and the following substituted:
“2(1) The Provincial Land Commission established under the Land Commission Act is continued as a corporation under the name Provincial Agricultural Land Commission...”
- * * *
- Objects And Powers* 5. Section 7 is repealed and the following substituted:
“7. It is the object of the commission to,
- (a) preserve agricultural land for farm use,
 - (b) encourage the establishment, maintenance and preservation of farms, and encourage uses of land in an agricultural land reserve compatible with agricultural purposes; and
 - (c) advise and assist municipalities and regional districts in the preparation and production of the land reserve plans required for the purpose of this Act....
- * * *

APPENDIX B —

III. AGRICULTURAL LAND COMMISSION: REGULATIONS, GENERAL ORDERS AND POLICIES

Attached is a table of contents from the ALC Handbook, as amended March 1996, as an indication of the additional framework for decisions relating to agricultural lands in the province. The ALC Handbook notes the following distinctions:

“ The Act, passed by the Legislature, sets the legislative framework for the establishment and administration of the agricultural land preservation program.

The Regulations, passed by Cabinet, identify the procedures for submitting applications for inclusion, exclusion, subdivision or non-farm use; specify land uses permitted in the ALR; specify special case land uses requiring Commission approval by a special application process, and; specify fees.

The General Orders, issued by the Commission, identify, other than on a case-by-case basis, certain uses or subdivisions that may be allowed without need for an application, and any conditions that need to be met.

The Policies of the Commission outline principles, guidelines, strategies, rules or positions on various issues; and provide clarification and courses of action consistently taken or adopted, formally or informally.”

[Note that in addition, in 1998 Cabinet provided the Guidelines also included earlier in this Appendix B].

AGRICULTURAL LAND COMMISSION: REGULATIONS, GENERAL ORDERS AND POLICIES

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Cross Reference: ALCA, Regulations, General Orders, and Policies	2-3
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Acts and Regulations	2-5
Agricultural Land Commission Act	2-5-1
Agricultural Land Reserve Procedure Regulation 313/78	2-5-2
Subdivision and Land Use Regulation 7/81	2-5-3
Golf Course Development Moratorium Act	2-5-4
Soil Conservation Act	2-5-5
Order in Council 1513/95, Fee Schedule	2-5-6
General Orders	2-6
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3075/76 Roads - Peace River and Fort Nelson-Liard Regional Districts	2-6-2
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APPENDIX B —

**IV. RECOMMENDED AMENDMENTS FOR THE PROVINCIAL INTEREST REFERENCE
 IN THE AGRICULTURAL LAND COMMISSION ACT, R.S.B.C. 1996, c.10.**

The following consolidates,

- (a) recommended changes from the Quayle Review (1998) in **bold** text, and
 (b) suggested changes in bracketted italics,
 into the existing organization of text of the Act.

Definitions

1. In this Act * * *

"Provincial Interest" means the public interest of all British Columbians, related to the preservation of agricultural lands, and includes the following essential characteristics:

- (1) **province-wide context;**
- (2) **long-term consequences;**
- (3) **open and accountable decision-making; and,**
- (4) **the preservation and management of scarce and important provincial assets.**

["Provincial Interest Reference" means the process described under sections 40 through 44 herein.]

*Reference of a matter
to the board*

40. (1) If the Lieutenant Governor in Council considers *[a Provincial Interest Reference to be warranted]* the Lieutenant Governor in Council by order may refer to the board, for the purpose of *[public hearings in each region of the province]*, any of the following matters that is before the commission at the time of the order making the referral: * * *

[the commission, a regional district board or municipal council, or an aggrieved owner may apply to the Lieutenant Governor in Council to initiate a Provincial Interest Reference]

(2) The Lieutenant Governor in Council must specify written terms of reference *[consistent with the Provincial Interest hereunder]* for the purpose of a public hearing by the board pertaining to a matter referred to the board under this section.

* * *

*Mandate of
the board*

43. (1) On receipt of and in accordance with the written terms of reference specified in conjunction with an order under section 40, the board, in accordance with the terms of reference, must,

- (a) *prepare a discussion paper for the public in advance of public hearings which must include at least a summary of the matter under review; the terms of reference of the Provincial Interest Reference, and; a report from the Provincial Agricultural Land Commission on the matter, and;*
- (b) *hold public hearings in each region of the province.*

(2) **The following principles must apply to all aspects of each Provincial Interest Reference hereunder:**

- (a) **the preservation of agricultural land is in the Provincial Interest of the highest order, and the use of such lands for agricultural purposes is the highest and best use of such lands;**
- (b) **environmental and heritage purposes for a site on agricultural lands may be deemed in the Provincial Interest if the site has significant value for environmental or heritage purposes, and such purposes,**
 - (iii) **could not be replaced or relocated to a non-agricultural site; and**
 - (iv) **would be implemented to result in a "no net-loss" to the agricultural capabilities in the area, and;**

- (c) economic, social and cultural factors contribute to the assessment of agriculture as the highest and best use of agricultural lands over the long-term and due to the priority of agricultural uses of the limited resource of agricultural lands, further consideration of external economic, social and cultural factors to override such a priority should be critically considered for long-term consequences and given tertiary weight or relevance in a Provincial Interest Reference.

"No net-loss in this section means of equal or greater quantity and of equal or better quality, according to agricultural capability factors including soil capability, climate and micro-climate, land improvements and proximity to market infrastructure.

(2) On conclusion of the public hearing(s), the board must submit to the Lieutenant Governor in Council,

- (a) a written report in accordance with the written terms of reference specified under subsection (3), and
 (b) a summary of the evidence received and submissions made in the course of any public hearing held in accordance with the terms of reference.

(3) Within 10 days after submitting its report under section 40 the board must publish the report in the prescribed manner.

Decisions

44. (1) On receiving the board's report *[and a response of the commission to the board's report, and not earlier than 10 days following publication of the board's report]* the Lieutenant Governor in Council by order may decide the outcome of the matter that is the subject of the order under section 40 **as to whether it is in the Provincial Interest...**

* * *

(2) The Lieutenant Governor in Council may attach conditions to an order made under this section.

(3) An order made under this section is final and binding *[subject only to an error of law or jurisdiction]*.

APPENDIX B — V. MORE DISCUSSION ABOUT THE BALANCING TEST

The Balancing Test provides a context for a board to consider non-agricultural uses of agricultural lands, and report to Cabinet. My conclusion was that the only way this would be consistent with the objects of the act is if the use of such a test further defines "Provincial Interest" by applying the general principles of Provincial Interest in the more specific context of agricultural lands and purposes.

NOTE 1: PLANNING LEGISLATION DIFFERENT FROM THE ACT

Perhaps part of the confusion lies with well-intentioned casting about for precedents, and the nets falling on environmental review or planning legislation. However, *note that the Act starts out several steps further advanced than such legislation*. Environmental review or planning legislation which includes comprehensive reviews of everything under the sun are critical when there is (a) a lack of information or (b) the value of certain factors has not been determined. In the Act, however, we have the information (agricultural capability), and the value of such has been determined (high, based on limited supply, and market and not-market factors).

We therefore need to understand how the Act is different from other legislation. In this case, the context is the Agricultural Land Reserve, where the agricultural capacity of the lands has been established, and the lands in the reserve itself have been declared a scarce and valuable resource which ought correctly to be preserved. It is not a general development statute dealing with extremely broad concerns (such as a Municipal Planning Act or Environmental Assessment legislation), nor is it a statute guiding the management of relatively abundant resources (such as the Forest Land Reserve Act).

NOTE 2: OTHER REASONS FOR FOCUSING SCOPE

Two other considerations follow in support of focussing the scope — one practical and one political. A practical consideration for focussing the scope is that it is also *not in the public (or Provincial) interest to have scarce administrative, executive or quasi-judicial resources, human and financial resources consumed by unnecessary debate*. The political concerns are that if there is even a perception that larger exclusions and removal may be permitted, then this will serve only to encourage some people to push the limits of the envelope. This increases the risk of election-driven political decisions.

NOTE 3: SOME PRACTICAL CONCERNS

A practical concern with the effects of economic, social and cultural factors in considering the Provincial Interest is a disconcerting tendency for decision-makers to misconstrue what economic or social benefits warrant an override of very, very limited lands reserved for agricultural purposes. Although the Act is currently silent on what specific uses could warrant such an override in the Provincial Interest, examples of transportation, infrastructure, defence and health or emergency response facilities are often noted in discussions. Then we get the first decision from Cabinet on this question which supports residential and recreational uses, and which is justified by the courts because it is not inconsistent with the current Act.

These are tough issues and we need to help decision-makers focus on relevant factors. There is a reference in the Cabinet Guidelines to a "major transportation facility", and coincidentally, recent news of revisiting the Roberts Bank Superport land assembly (arguably, the absence of political judgment in the Provincial Interest which resulted in the Act in the first place). Economic, social and cultural benefits can be argued at length for a superport, or defence facility, based on election, construction or other perceived schedules. But were there no options in the Provincial Interest which were consistent with the preservation of scarce agricultural lands and the benefits of agricultural purposes?

Therefore, the Balancing Test recommended reflects the priority of agricultural purposes on agricultural lands, and on other irreplaceable resources of long-term importance such as environmental or heritage effects.

APPENDIX C — REFERENCE MATERIALS

Note: A focus on interactive consultations, coupled with limited time and resources rendered a comprehensive literature review difficult. The following is a list of the more relevant references, legal precedents, and legislation reviewed in the course of preparing this report. Further research in the context of preservation and conservation legislation, and precedents from jurisdictions of similarly limited productive land resources, such as Great Britain and Japan, may be of interest in future.

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B. LEGAL & LEGISLATIVE PRECEDENT

This Review was limited in substantial consideration of legal precedents from courts and legislatures. A general overview indicated that the direction of this Review was consistent with such precedent, however more detailed research may be advised in this area for a more thorough documentation of legal and legislative precedent.

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