



GUIDELINES FOR CONSERVATION COVENANTS in the ALR

Updated August, 2011

1. Introduction

The following guidelines are intended for use by proponents of conservation covenants for lands in the Agricultural Land Reserve (ALR), and for Commissioners reviewing proposed covenants.

The purpose of the Agricultural Land Commission is to preserve agricultural land and to encourage farming on agricultural land. The Commission accomplishes its purpose through provincial zoning – the Agricultural Land Reserve or ALR. The Agricultural Land Commission Act also provides additional tools to protect agricultural land, including a new provision regarding covenants on properties in the ALR.

Section 22 (2) of the Act states that: “A covenant that prohibits the use of agricultural land for farm purposes has no effect until approved by the Commission.” This section came into effect Nov.1, 2002.

Under this section the Commission has specific authority to review and approve those conservation covenants that may effectively prohibit agricultural use of Reserve land and thus be inconsistent with the purpose of the Act. The Commission has therefore developed the following guidelines:

- to provide guidance to landowners, conservation groups and government agencies which are developing conservation covenants that include ALR lands, and
- to facilitate Commission reviews of proposed conservation covenants.

Information provided by proponents will be used by the Commission to help it ascertain whether the proposed restrictions on existing and potential agricultural use of ALR lands are reasonable and scientifically based, and can be supported in the ALR. The Commission has and will continue to agree to restrictions on agriculture where there are important, demonstrated environmental values that can be reasonably balanced with agricultural values.

2. Guiding Principles

The following guiding principles are observed by the Commission when reviewing proposed conservation covenants in the ALR:

1. The Commission encourages covenants that balance both agricultural values and environmental values and that recognize the complex relationships between some agricultural uses and areas of environmental interest, where practical.
2. The Commission may support covenants that place reasonable restrictions on agriculture in order to protect important environmental values.

3. Where important environmental values exist and are demonstrated, covenants should allow for specified farm activities in locations that will not unduly impact or diminish the identified environmental values.
4. Where important environmental values exist and are demonstrated, covenants restricting agriculture should be focused primarily on those areas specifically identified with the important environmental values, and should not unduly restrict agriculture elsewhere on the property.
5. The Commission is more likely to support covenants that provide additional benefits to agriculture (examples include restrictions on number of residences; restrictions so that titles comprising a farm or ranch may not be sold separately).

3. Guidelines

The following guidelines are provided to assist landowners, conservation organizations and government agencies when developing covenants that are intended to apply to lands in the ALR:

1. Proposals for covenants need to be substantiated by the appropriate level of scientific information to help the Commission gauge the relative importance of the environmental values (examples are wildlife habitat and plant communities inventory ratings, technical reports, mapping and inventories). See Appendix - Information for Covenant Referrals
2. The Commission will give additional consideration to proposed covenants to protect environmental values identified through an Environmental Farm Plan developed and adopted under the Agricultural Policy Framework (APF) joint federal-provincial agreement.
3. The Commission will give additional consideration to proposed covenants to protect environmental values identified and protected through current statutory provisions (such as habitat for species identified in Species at Risk Act (SARA) Official Recovery Plans) and values identified through current federal, provincial or local government inventory programs.
4. Non-governmental organizations acting as covenantees, will advise landowners of the information requirements for referrals for proposed covenants in the ALR and may act on behalf of the landowner(s) to make the referral to the Commission.

4. Referral Procedure

To obtain consent from the Commission for a conservation covenant that prohibits or restricts agriculture on ALR land, a referral must be made to the Commission. The referral is made directly to the Commission office (as opposed to non-farm use applications that are first filed with the local government office). However, if the covenant contemplates a non-farm use that is not permitted by the Agricultural Land Commission Act, regulations or orders of the Commission, permission for that use must first be sought through application to the Commission under the procedures outlined in the Act and regulations.

The following is the suggested procedure for obtaining Commission consent for covenants for ALR lands:

1. Anyone interested in registering and holding a conservation covenant (covenantee) must first apply to the Surveyor General, Ministry of Sustainable Resource Management of the provincial government, to receive approval for appropriate designation by the Minister. The purpose of the 'general designation' is so that the organization may enter into conservation covenants without obtaining an individual designation for each covenant. Information may be found through: <http://www.ltsa.ca/surveyor-general/applications-to-the-surveyor-general#hcc>
2. Prior to registering a covenant affecting lands within an ALR, registered and non-profit organizations, societies or persons or organizations (not non-profit) must first obtain the consent of the Agricultural Land Commission. This consent is obtained by referring the proposed covenant to the Commission at the address noted below, together with supporting information (see Appendix – Information for Covenant Referrals).
3. Early referral to the Commission is recommended so that any information gaps may be identified and filled and any contentious issues can be resolved, well in advance of the proposed registration with the Land Title Office.
4. Referrals of proposed covenants will be processed by the Commission following the same timelines as for applications, that is, 80% of referrals to receive a response within 90 days. Referrals will be fast-tracked where there are other statutory time response requirements or where information is readily available to indicate minimal or no impact on the ALR.
5. If, after a preliminary review, there are unresolved concerns, Commission staff or, in exceptional circumstances the Commission, may meet with proponents to discuss and resolve outstanding issues.
6. When Commission consent is obtained, the covenantee or covenantor may then register the covenant against the title in the appropriate Land Title Office.
7. Further information about the Commission, its legislation and regulations may be obtained from the Commission website: www.alc.gov.bc.ca

Contact the Agricultural Land Commission at:

133-4940 Canada Way Burnaby BC V5G 4K6

Tel: 604 660-7000 Fax: 604 660-7033

Attachments:

Appendix – Information for Covenant Referrals to the Agricultural Land Commission

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Appendix: Information for Covenant Referrals to the Agricultural Land Commission

Information, to be included in a referral to the Commission, should include (but need not be limited to):

1. Map showing general location of property and noting Municipality or Regional District
2. Size of property (specify hectares or acres)
3. Number of parcels in proposed covenant and PID's (Parcel Identifier Numbers) for each
4. A larger scale map (preferably 1:20,000 or better) showing parcel size, boundaries of property and ALR*
5. Name of Covenantee (organization or agency holding the covenant) and contact information
6. Name of Covenanter (landowner) and contact information
7. Signature of Covenanter agreeing to draft covenant
8. Statement of ecological values including:
 - What are the fish, wildlife and plant community objectives for the subject property? (provide relevant sections of wildlife management plan for area or adjacent areas if available)
 - Is the proposed covenant in support of recovery planning for a 'federally listed species at risk'? If so, include a letter from the recovery team chair.
 - Is the proposed covenant area identified in Sensitive Ecosystem Inventory mapping (available for east coast of Vancouver Island, Sunshine Coast, central and north Okanagan) or Terrestrial Ecosystem mapping (TEM – available for south Okanagan and lower Similkameen)?
 - Does the covenant propose to protect BC Conservation Data Centre 'element occurrences'? For more information see CDC Internet Mapping Services or BC Species and Ecosystems Explorer
 - Is the proposed covenant part of a proposed or approved Environmental Farm Plan under the Agriculture Policy Framework (APF) joint federal-provincial agreement?
 - Other evidence of the property's importance to wildlife (i.e. baseline inventory, wildlife capability rating; a letter from a Water, Land and Air Protection (WLAP) biologist; reference to a technical report)
 - a map at a sufficient level of detail (preferably about 1:5,000) showing high value ecological areas proposed for covenant protection *.
9. Statement of agricultural values, including:
 - current or past agricultural activity,
 - farm operation size (parcels operated as a farm business) including parcels that may not be subject to covenants,
 - type of farm use, crops, animals and areas in production,
 - adjacent uses including type and size of adjacent farm operations,
 - Canada Land Inventory (CLI) or BC Land Inventory (BCLI) ratings for agricultural capability,
 - any relevant technical soils, climatic or agrologist's reports if available,
 - Is there an Agricultural Area Plan for the area? (provide relevant sections if available),
 - Does the property contain agricultural infrastructure? (drainage and irrigation conveyance systems, regional pump stations, etc.),
 - a map at a sufficient level of detail (preferably about 1:5,000) showing existing and/or proposed agricultural areas (i.e. where agriculture would be permitted under covenant) and any existing or proposed agricultural or other buildings *.
10. Rationale for the proposed covenant including:
 - statement / case for why ecological values should take precedence over agricultural values in the covenant area,
 - how and why agriculture should be limited,
 - a general assessment of current and future agricultural values that may be lost under covenant

* information may be shown on one or more maps

The information requirements are guidelines only and will be applied with flexibility. The Commission does not require or expect new data or baseline information to be collected for the referral. Referrals may require less documentation where impacts on agriculture are minimal.