

# British Columbia's agricultural land preservation program<sup>1</sup>

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British Columbia has made one tough land use choice. It has chosen to preserve agricultural land through a provincial zoning mechanism as a first priority. The British Columbia Land Commission is the action mechanism through which this priority is implemented. Our preservation program can be only the first building block towards comprehensive land use planning, albeit, a very important building block.

Topographically, British Columbia consists of a series of roughly parallel mountain ranges with a broad Interior plateau. Surficial materials are mainly glacial in origin, except in the valley bottoms where post-glacial alluvial materials predominate. Climate ranges from warm and moist on the coast to warm and dry in Southern interior and to cold and dry in the North.

The variable topography and climate has resulted in an extremely complex pattern of soils. Very seldom do soil, climate, topography, and drainage occur in ideal combinations for agriculture. In the narrow valleys where soil and climate are suitable, topography is the limiting factor. In the interior plateau where soils are good, climate limits the range of crops that can be grown. In total, only about 4.9 percent of the land area of the province has the capability for agricultural use. If only that part lying west of the Rocky Mountains is considered, the figure drops to 3 percent. Only .01 percent of the province has the soil and climate combination suitable for tree fruits and grapes. The two key areas agriculturally, the Lower Fraser River and the Okanagan Valleys, are precisely the areas where urban expansion pressures have been greatest. The Lower Fraser Valley has a population density greater than Holland.

It was a combination of these factors - - the scarcity of agricultural land in British Columbia and the increasing expansion of urban uses onto some of the best agricultural lands—that led to provincial legislation to preserve agricultural land for future food production. Despite very stormy beginnings it has been 3-1/2 years since the so-called farmland "freeze" was imposed. I think that the Land Commission Act is now generally supported by the public and the farming community and that the Land Commission receives the cooperation of most local governments.

## *Legislation*

Something had to be done quickly because of the phenomenal rate at which we were losing our arable lands. When the newly elected provincial government brought in the "land freeze" in

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December 1972, it used the existing Environment and Land Use Act, a very strong piece of environmental legislation passed some years ago, but, until 1972, it was seldom used. This act was used to pass temporary cabinet orders, freezing subdivision and nonagricultural use of farmland. The freeze applied to land that was either taxed as farmland, zoned agricultural by a local government body, or land rated in classes 1 to 4 by the Canada Land Inventory (similar to the SCS land capability classification). The province then proceeded to draft the Land Commission Act, which, after a stormy ride through the legislature and much battering about by various interest groups, was passed in 1973. The original five-member land commission was appointed in May of that year. Action on a provincial level was taken because, although regional and local governments had been given zoning authority under the B.C. Municipal Act, they obviously had not been protecting the agricultural land resource. The zoning mechanism, together with options for acquisition in key situations, was chosen as a base for the provincial legislation. The compensation and development rights concepts were rejected, but some parallel separate programs, namely farm income assurance based on cost of production, were introduced.

The main objective of the legislation was to preserve agricultural land although the act also contains secondary objectives to preserve land for greenbelt, parkland, and urban land-bank purposes. The Land Commission Act takes precedence over all other provincial legislation, except the Pollution Control Act and the Environment and Land Use Act. The legislation gives the commission broad discretionary powers in zoning and regulating the use of agricultural land although land for the other three uses must first be bought by the commission or received as a gift before it can be zoned for those uses.

### ***Establishing the Agricultural Land Reserves***

The first task of the commission was to establish, in cooperation with local governments and provincial agencies, agricultural zoning throughout the province. One important decision was that zoning or the Agricultural Land Reserve (ALR) as we now call it should be based on biophysical parameters, the natural characteristics of the landscape, rather than the variables of market and other socioeconomic considerations. Initially, therefore, we had to decide on a technical base that would weather all storms, politically and otherwise, and be as fair as possible to everyone. The Canada Land Inventory (CLI) agricultural capability interpretation, derived from basic soil and climate data, was the only uniform provincewide classification of the land resource available at the time - - a very necessary requirement in order to fairly and equitably apply provincewide zoning. Without this basic biophysical inventory, the scheme of credible agricultural zoning intended to preserve agricultural land in the long term would have been very difficult, if not impossible, to implement.

Under the Land Commission Act, each of the 28 regional levels of government was required to submit an agricultural land reserve plan to the commission for consideration. If a local government refused (although none did), the commission had the right to prepare the plan. To aid the regional districts and to provide a guideline, the provincial Ministry of Agriculture prepared suggested agricultural land reserve maps that identified those lands having the soil and climate combination to support agriculture and not already urbanized or irreversibly alienated. These maps were a generalized second-stage interpretation of basic soil survey and CLI agricultural capability data combined with proposed urban expansion areas on lower capability

or nonagricultural land. About 300 information meetings and public hearings were held in the regional districts so that the public could actively participate in drawing the ALR map for their area. When the plans were agreed on at the regional district level, they were submitted to the commission for review.

In some cases changes to the plans were recommended. The quality of the plans submitted varied, depending on the attitudes and directions local government chose to project. During the commission review stage, therefore, we attempted to insure basic technical consistency within the agricultural land reserves throughout the province. In general the following methodology was applied:

- We retained in ALR all class 1 to 4 land (CLI) that was not irreversibly developed, regardless of ownership or tenure. Crown (provincial and federal) and private land were treated equally.
- If nonagricultural land was not immediately available for urban expansion, enough land was excluded to allow for about five years growth of the community, related wherever possible to current community-or regional plans and servicing programs. The purpose of this was to allow a reasonable time for local governments to re- think and redirect future growth patterns.
- We included lower capability land (classes 5 and 6) where historical land use patterns indicated that such land could effectively be used for agriculture in conjunction with class 1 to 4 land (mainly in ranching areas of the province). Generally this land included the spring and fall ranges (dominantly open grassland) but not the much more extensive summer ranges (dominantly forested range).
- We included small pockets of nonagricultural land (class 7) where exclusion of such land might have allowed undesirable intrusion of incompatible uses into the agricultural community.

When the commission had completed its review, the plans, along with the commission's recommended changes, were presented to cabinet for refinement and approval through the environment and land use committee. After cabinet approval, the land commission officially designated the agricultural land reserve plan for each regional district. At this point the original farmland freeze orders under the Environment and Land Use Act were lifted, and zoning under the Land Commission Act was then applied.

The process of provincial agricultural zoning took us about 1-1/2 years. The original designated reserve covered approximately 5 percent of the land area of the province or about 11.5 million acres. The ALR is a unique kind of zone, based on the biophysical or ecological attributes of the land. It is regarded as relatively permanent. It is not subject to rezoning to a "high" use or, as some describe it, a lower and worse use if out of agriculture, as in standard zoning laws.

While basing agricultural zoning on the land's inherent characteristics was the only sensible route to follow, given the long-term intention of the legislation, the route was not without its problems. Because we were dealing with a zoning concept, the end product of which would be administered and used by existing public agencies, problems quickly arose related to

the administrative need for legally definable boundaries. The technical data, of course, are based on the natural breaks in the landscape. First, all natural boundaries had to be converted to straight-line legal boundaries for land registry identification purposes. This was a long, tough, frustrating job and the results were not altogether successful. The problem of natural versus legal boundaries is one that I feel prospective users of biophysical information as well as those who are collecting such information should be more aware of. In our experience, defining agricultural areas by straight lines forced us to generalize biophysical data that, for the purposes we were attempting to use the data, was already being pushed to the limit. Partly because of this, the credibility of the agricultural land reserves has sometimes been questioned, especially by nontechnical people who may look at one or two properties and note that the agricultural portion seems to bear little resemblance to the actual agricultural land reserve boundary.

The scale of mapping was the second main problem we encountered and are still grappling with. This was a problem especially in the metropolitan areas, along the urban fringe where the fragmentation of parcels was already quite advanced. Agricultural capability data were available at a scale of 1:50,000, but in drawing the ALR boundary and in considering applications under the *Land Commission Act*, we had to apply information mapped at this scale to lots of 2, 5, and 10 acres.

Because of the urgency to establish the ALRs as quickly as possible, we could do little more than recognize such problems during the initial designation procedure. Now the commission views the refinement of the ALR boundaries as an ongoing process. First, the basic agricultural capability data are refined through further fieldwork. Formal adjustments to the ALR boundary follow if and when warranted.

### *Managing the Agricultural Land Reserves*

Administering the ALR has been no simple task and we are constantly confronted with new situations that demand attention. Agricultural land, like any other resource, cannot really be viewed in isolation. It is an integral part of our total land resource. Many land problems, not only in British Columbia but all across North America, have resulted from ignoring this fact and looking at the land from the point of view of single-use demands. While the preservation of land for food production has the highest priority within the agricultural land reserves, we also try to keep in mind that integrated use and management is one of the basic principles of any good land use planning process. Consequently, our land use regulations reflect a number of uses considered compatible with agriculture within the reserves.

Open land recreation uses, ecological reserves, and golf courses were included in the reserves where the soil and climate combinations were also suitable for agriculture. Similarly, some land under various types of forest use tenure are in the reserves, recognizing that such lands are and will likely continue to be used in the foreseeable future for wood production. In some instances, we feel it may even be desirable to manage certain lands for a compatible use to the exclusion of agriculture in the short term. Part of the Kootenay River Valley near Creston, for example, has class 5 to 7 agricultural capability in its natural state because of poor drainage. It is currently managed for waterfowl production. If this land were ever needed for soil-based agriculture, however, the option is there. With drainage, agricultural capability would improve to

class 2. This may not be done or may not be desirable. Whether managing the land for agriculture or for waterfowl brings the greatest benefit to society is a value judgment. The key point is, we want to retain the options for choice.

The Land Commission walks a very thin line in its day-to-day managing of the agricultural land reserves. No matter what land use control method is used, appeals against the legislation will always be a reality. Such appeals need to be considered very carefully so that public needs are served as well as possible while at the same time the basic intent to preserve the land resource is upheld. Decisions must not only be fair but must also appear to be fair; otherwise, the credibility of the entire program is jeopardized.

### ***Appeals Procedure***

The appeal procedures have been described by some as a bureaucratic nightmare among other less complimentary labels. In addition to the compatible and conditional uses provided for under the land use regulations, there are basically two kinds of appeal applications - - those requesting subdivision or nonfarm use within the agricultural zone and those requesting exclusion from the ALR. Both appeals must be initiated through local government levels, then forwarded with comments and recommendations to the commission for decision. Because the reserves are to protect agricultural land in the long term, factors such as parcel size, economic viability, current market conditions, or ownership play little or no role in the decision-making.

Applications for subdivision of land that will remain within the reserve are the most numerous. The commission is primarily concerned that the options for agriculture are retained in the long run. We have found that this is perhaps the most difficult concept for applicants and the public to appreciate. For example, in some instances subdivision may bring gains to agriculture in the short term because purchasers of the subdivided portion will bring the land into food production. But in the long run, the effect of such a subdivision may be detrimental because the smaller parcel size may discourage or reduce the likelihood of future owners using the land for full-time commercial agricultural operations. Commission decisions on those applications requesting subdivision or nonfarm use within ALR are final. Requests for reconsideration are granted only if there is substantial new information or a substantially altered proposal.

Individual appeals for exclusion from the ALR, in addition to following the route through local government before reaching the commission, may be presented by the applicant and/or his agent to the commission during one of the scheduled quarterly hearings held throughout the province. If the commission renders a negative decision, and refusals by far outnumber approvals, there is a provision for appeal to the cabinet, providing two land commissioners sign the application to go forward. Appeal can be made through the courts only on the question of excess jurisdiction.

Requests for further inclusion of land within the ALR and applications by a local government body for exclusion of land from the ALR also go before the cabinet for the final decision. In these instances, the Land Commission acts in a recommending capacity only.

The saying that you cannot make one decision applies most definitely to land use decisions. The characteristics of the land and everything we as a society do with it are interrelated. In managing the Agricultural Land Reserve, the commission is constantly concerned about the real effect of its decisions and actions on the farming community and society in general. It is not enough to preserve the land. Land is only part of the team. If we do not work also to preserve the expertise of the farmer and protect the sense of identity, self-confidence, and vitality of the farming community, the whole philosophy of preserving agricultural land may well be useless. Whether we are reviewing an application for subdivision or nonfarm use or an application for exclusion of land from the ALR, we constantly ask ourselves: "What would be the direct and indirect effects of this particular action on existing or potential agricultural uses on surrounding lands?"

Any proposal, whether it is for a school, railway, or a condominium development, even if it is located on land perhaps only marginally suited for agricultural use, is undesirable if it negatively affects adjacent farming operations or increases the pressures on the farming community. Conversely, certain nonfarm uses, namely food processing plants or other agriculturally oriented industries, may actually be acceptable within the ALR if they are felt to be essential to the well-being of the farming community and evidence indicates that they cannot be adequately accommodated on land outside the ALR.

As time and budget permits, the commission participates in projects aimed at resolving some of the complex planning problems related to the ALR. To this end, we may provide technical assistance to farmers' organizations in their efforts to strengthen the agricultural community. The commission currently is preparing a brief to the provincial government on taxation structures relating to the ALR in the hope that taxation can be used to further protect land within the ALR. The commission also works with other levels of government to encourage a growth policy that will help to relieve the pressures on agricultural land, whether through support of community plans that direct urban growth away from the ALR or whether working to assure that provincial and federal financed programs, such as water and sewer, respect the priority of agricultural land preservation.

A small acquisition program, through which we have purchased approximately 10,000 acres of agricultural land in key areas, has also been started. Most of this land has been leased on a career-lease basis (20 years), some with option to purchase.

Sometimes, of course, use of agricultural land for nonfarm related uses is unavoidable. In the case of highways, railways, and other services, the commission first needs to be convinced that alternate sites or routes outside the Agricultural Land Reserve are not feasible. Then we try to locate such activities within the reserve with the least possible negative impact on the agricultural community.

### *Summary*

As the saying goes, the proof of the pudding is in the eating. The question is, how successful have we been in British Columbia in preserving agricultural land? In terms of round numbers, we have handled about 2,300 private applications for subdivision or nonfarm use through 1976. This total does not include applications for compatible and conditional uses under

the land use regulations. Our statistics indicate that the commission has held a hard line on appeal applications, of which about 80 percent are from people who are not engaged in farming but own land in rural areas of the province.

In terms of acres within the ALR, there has actually been a small net increase from the originally designated reserve. Exclusions resulting from applications by private citizens and local governments and from the commission's "fine tuning" reviews total about 15,000 acres. Most of this land was marginal or had low capability for agriculture. Inclusions total approximately 16,000 acres. Perhaps the most significant and revealing statistic however, is the approximately 40,000 acres of primarily class 1 to 3 land that has been refused exclusion from the ALR. Although this may appear to be an insignificant acreage, it is a sizeable amount to a province with just over 11 million acres. The main reason for refusing these applications for exclusion was the agricultural capability of the land. In very general terms, the presence of the *Land Commission Act* in British Columbia has thus far saved, through the appeal process alone, about 40,000 acres of good agricultural land from being converted to irreversible uses

There has been a fairly significant shift in public opinion since the *Land Commission Act* was passed. While farmers' organizations protested the legislation when it was introduced, they now actively assist the Land Commission in its task. Where the general public was confused and skeptical about the program initially, we now have environmental groups, organized labor, and individual citizens voluntarily taking on a watchdog role against infractions of the *Land Commission Act*. I am not suggesting that our problems are over, but the increased public awareness of the issues related to agriculture is certainly encouraging.

I do not want to imply that independent commissions and province-wide zoning are the best or the only way to tackle the agricultural land preservation problem. Although this approach appears to be working in British Columbia, it is by no means a solution to everyone's problems. In other parts of Canada, different strategies are being developed, with varying degrees of success. The programs reflect a range of situations, regional priorities, and political realities. Saskatchewan has established a land bank commission equipped to purchase agricultural land as a means of retaining it in active agricultural use. Prince Edward Island exerts control over land use through land ownership regulations in Alberta, a land use forum was established to study a wide range of land-related issues and to recommend to government techniques and structures for future action.

Whatever land use control mechanism is chosen, however, when it really comes down to legislating solutions, I believe there are some key principles that increase the odds for success. First regulations must be based on solid technical data that people can understand. The essence of good agricultural land is a soil and climate combination. Any program that does not recognize this fact invites problems and complications.

Second, any control mechanism needs to be basically apolitical. In British Columbia, the fact that the decision-making body is a commission, independent of government, is one of the reasons we have been successful thus far. Not only has the program survived a provincial election and change of government, but it has also experienced a turnover of commission members as well.

A third and very important element is the provision for shared decision-making. Although the legislation confers fairly broad powers to the commission, local governments and the public participated in drawing up the agricultural land reserves and, through comments and recommendations submitted with applications, municipal and regional governments continue to participate in the administration of the zoning. In addition, because the commission has a very small staff, we depend heavily on the Ministry of Agriculture and other provincial government agencies for technical assistance. This gives us constant opportunity for integration and communication. We also have arrangements with the British Columbia Federation of Agriculture whereby advisory committees of local farmers within each regional district are available for advice as we may request it.

The program is working thus far but much energy is still needed to effect a stable position environment for agriculture in one of the most limited agricultural land resource areas of North America.