

CLARK COUNTY

MAY 15, 2012

Rural Lands Study



Phase 1: Situation Assessment



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ATTACHMENT D
Review of Current Use Taxation Program

CLARK COUNTY RURAL LANDS STUDY

Review of Current Use Taxation Program

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1.0 PURPOSE

This assessment addresses three key questions:

- What are the Current Use and Designated Forest Land programs and how do land owners qualify for them?
- What have been the trends in their usage?
- What are the key issues related to public policy and rural use?

2.0 CURRENT USE TAXATION STRUCTURE AND OPERATION

The Current Use taxation program (RCW 84.34), established by the State Legislature in 1970, allows landowners tax relief when their land use meets certain criteria for farm and/or agriculture, timber land, and open space. Related to the Current Use program, but slightly different, is the current use assessment for Designated Forest Land Program (RCW 84.33). The Designated Forest Land Program is a criteria base program that allows for a special land assessment for forests in active production.

The primary intent and benefit of the program is to promote residents' quality of life by maintaining, preserving, and conserving areas that provide aesthetic, economic, and social benefits in the form of farms and agricultural land, forest, and open space. Current use properties are taxed according to the value of the "current use" rather than assessed through true and fair value (i.e. the highest economic value if the property were to be sold at a market clearing price). In its simplest form, the program is designed so that a land-owners property tax bill does not become the impetus for a change from a low density/intensity use to a higher density/intensity use (holding all other things constant).

There are three types of current use taxation, which include:

- Farm and Agricultural Land,
- Timber Land, and
- Open Space.

The State determines the criteria for each current use type, as well as how current use values are calculated while the County administers the program. Applications for current use classification are accepted on a rolling basis and can include adjoining properties. The process and review of applications can take over a year and up to six years for farm land current use designation.

It is important to note that while current use program offers reduced property taxes, they are only deferred and can be charged back including interest and penalties if the land is sold or withdrawn from the program. The seller of a current use designated property can avoid paying the deferred taxes if the buyer signs forms during the sale demonstrating their intent to maintain the current use designation. In other words, the responsibility of maintaining the nature of the property is transferred from the seller to the buyer.

3.0 APPLICATION PROCEDURES AND QUALIFICATIONS

The following represents a summary of the criteria needed to obtain current use designation, application procedures for each current use type, and details of how each current use value is determined.

3.1 Current Use Program

Farm and Agricultural Land

Requirements. There are three options for meeting the criteria requirements, though all require the completed application with the signature of all owners of the land, a legal description, a site plan, and copies of the IRS Farm Income Schedules for three of the previous five years. In some cases, a Farm Management Plan may be required.

- **Option 1.** Parcels or adjoining parcels must be 20 acres or more and either is devoted mostly to livestock production or commercial agricultural commodity production –or– registered in a federal conservation reserve program.
- **Option 2.** Parcels or adjoining parcels must be less than 20 acres, but at least five acres in size generating at least \$200 per acre annually in commercial agriculture products three of the last five years.
- **Option 3.** Parcels must be less than five acres generating at least \$1,500 per acre in commercial agricultural products during three of the last five years.

Qualifying properties can include up to 20% of the land in compatible incidental uses along with buildings necessary to produce, prepare, or sell the agricultural products, although in Clark County potted nursery stock and greenhouse production may not count.

Application Review Process. Once submitted, the property is physically inspected by the County Assessor. Once the application is accepted, the assessor then records the tax lien with the County Auditor. As each option illustrates, the process of obtaining current use designation can take more than five years. Requires a \$150 application fee.

Value Determination. The value is based on the earning capacity on similar land determined by soil class and commodity. The rates are applied on a per acre basis. The Washington Administrative Code (WAC) 458-30-260 establishes the method of determining current use value. The WAC states that the “value of classified farm and agricultural land shall be the net cash rental of the land divided by the capitalization rate.” The Washington State Department of Revenue (DOR) establishes the components necessary to calculate the capitalization rate. The net cash rental of land is determined by the County Assessor and Commercial Department through the Farm and Agricultural Advisory Committee.

Timber Land

Requirements. Applications require the signature of all owners of the land and a Timber Management Plan. The designation applies to parcels, or adjoining parcels, equal to or greater than five acres growing and harvesting timber.

Application Review Process. Once submitted, the property is physically inspected by the County Assessor. Then application is reviewed and submitted to the Planning Commission with a staff recommendation. After Planning Commission agrees, the application is then submitted to the Board of Commissioners for final review and decision. Once the application is accepted, the Assessor then records the tax lien with the County Auditor. Requires a \$150 application fee and \$371 inspection fee.

Value Determination. Timber values are based on land grades (composite of soil class and utility) used to determine per acre value supplied by the State Department of Natural Resources (DNR).

Open Space

Requirements. Applications require the signature of all owners of the land and relevant documentation supporting the classification. The classification can include the following:

- **Conservation & Enhancement of Natural Resources.** This requires either 20 acres or more that have mineral deposits of economic significance not currently being mined –or– archaeological sites registered under Washington State.
- **Stream Protection.** This classification requires at least 10 acres that: 1) contain significant springs delineated by DNR; –or– 2) adjoin or contain major streams considered shorelines of the state or listed in the County’s Shoreline Management Plan (SMP).
- **Soil Conservation.** Requires at least 10 acres, the land must: 1) consist of at least ten acres of Class I and II soils. And be at least 80% devoted to agricultural production;
- **Enhancement of Recreational Opportunities.** Requires at least 10 acres and includes only 1) public airstrips; or private airstrips with public facilities, 2) ball-fields, 3) non-public parks and lakes listed in the County’s SMP.
- **Historic Sites.** Limited to historic sites and structures of historic significance listed on local, state, or national registers.

Application Review Process. Once submitted, the property is physically inspected by the County Assessor. Then application is reviewed and submitted to the Planning Commission with a staff recommendation. After Planning Commission agrees, the application is then submitted to the Board of Commissioners for final review and decision. Once the application is accepted, the assessor then records the tax lien with the County Auditor. Requires a \$150 application fee and \$371 inspection fee.

Value Determination. Based on soil classification.

3.2 Designated Forest Land Program

As mentioned above, a close cousin of the Current Use program is the Designated Forest Land program (RCW 84.33).

Requirements. Applications require the signature of all owners of the land and a Timber Management Plan. The designation applies to parcels or adjoining parcels, equal to or greater than 20 acres growing and harvesting commercial timber.

Application Review Process. Once submitted, the property is physically inspected by the County Assessor. Once the application is accepted, the assessor then records the tax lien with the County Auditor. Requires a recording fee.

Value Determination. Designated forest land values are based on land grades (composite of soil class and utility) used to determine per acre value supplied by the State Department of Natural Resources.

4.0 PROGRAM ENFORCEMENT

According to County staff, applicants are reviewed periodically once they are in the program. The County has had less than a robust audit program in recent time due to reduction in resources and staff availability. Program administrators always review applicants when they either sell or transfer their property since the Assessor must sign their excise tax affidavit before applicants can record their transactions. Typically, this process either removes or reclassifies applicants at that time.

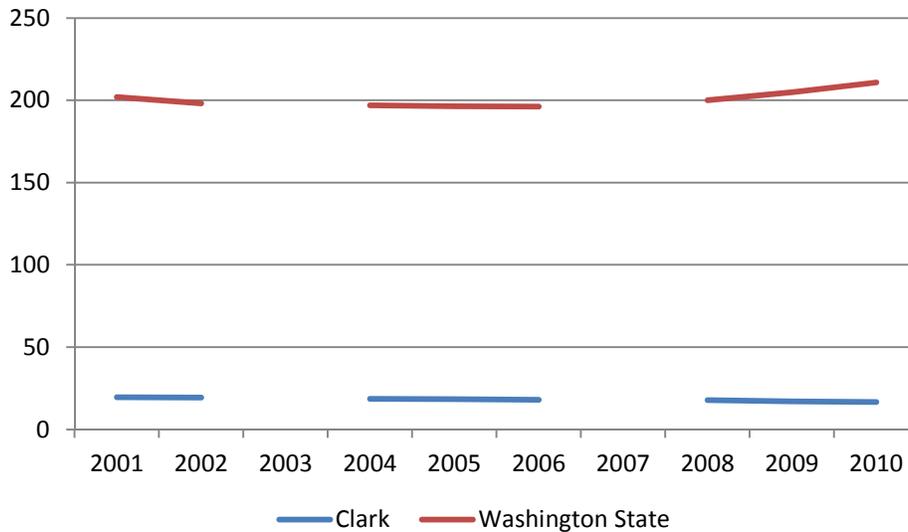
5.0 SUMMARY OF CURRENT USE PROGRAM¹

5.1 Current Program Usage – Clark County relative to the State Average

From 2001 to 2010, the number of applications in effect (enrollees) in the program grew at a rate of 1%. In contrast, enrollment fell statewide at a rate 1% during the same time period. In absolute terms, Clark County had the most enrollees for 2010 as well as the most land value reduced due to current use of all 39 counties in Washington State. Clark County had 4,224 of the 54,399 program enrollees. The Current Use program reduced the fair and true value of land from \$1,035,342,038 to \$17,467,785; a reduction of \$1,017,874,253. Normalized to population, Clark County averaged nearly 10 enrollees per 1,000 people compared to the state average of 8.

As Exhibit 1 summarizes, Current Use enrollees in Clark County average significantly smaller land sizes than the state as a whole. While the average acre size per enrollee grew statewide between 2001 and 2010, it fell from 20 acres to 17 acres in Clark County.

Exhibit 1: Average Acres per Enrollee

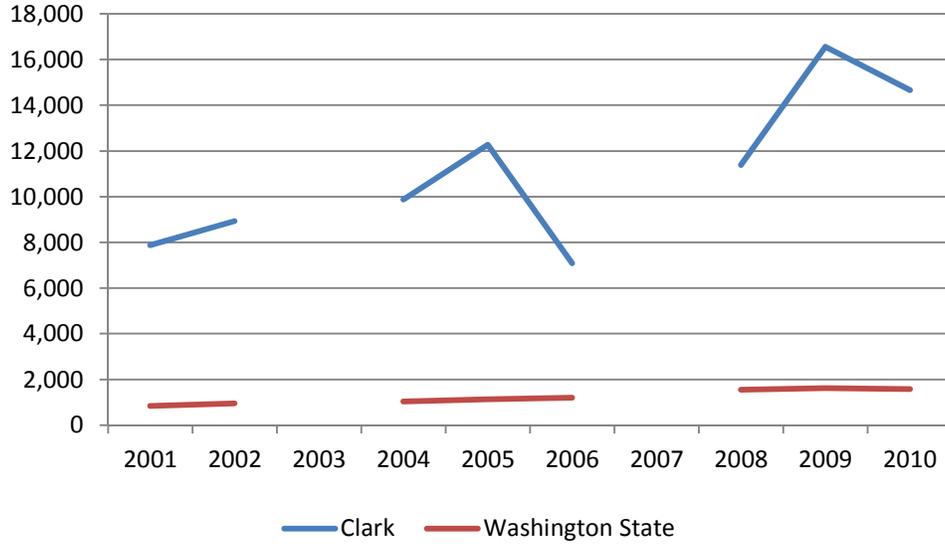


Source: Washington Department of Revenue, 2011; BERK, 2012

At this time, it’s unclear why the program is so well represented in the County relative to other regions in the state. However, the reason for the large absolute amount of current use value reduction can be explained by the high value of the underlying land. Exhibit 2 shows the average “true and fair” value of the land in Clark County relative to the state average. In 2010, Clark County averages \$14,700 per acre compared to the state average of \$1,600.

¹ Note: all figures are shown non-inflation adjusted since the main purpose is to show relative changes within categories, not “real” growth of the values themselves.

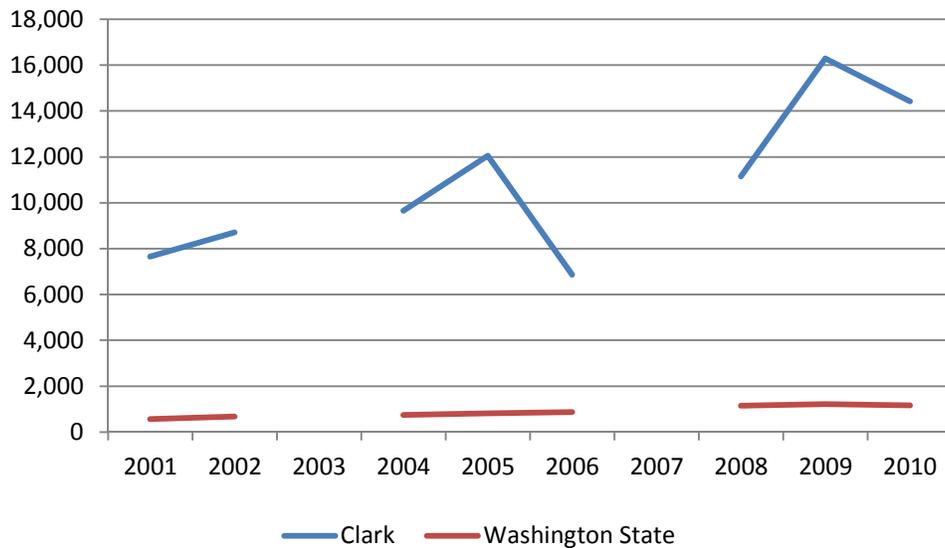
Exhibit 2: Average True and Fair Value per Acre



Source: Washington Department of Revenue, 2011; BERK, 2012

Because of this high starting value, enrollees see a large reduction in the taxable value of their land relative to what is happening statewide. Exhibit 3 shows the average current use reduction value per acre. On an acre basis, enrollees see an average reduction of \$14,400 compared to the state average of \$1,600.

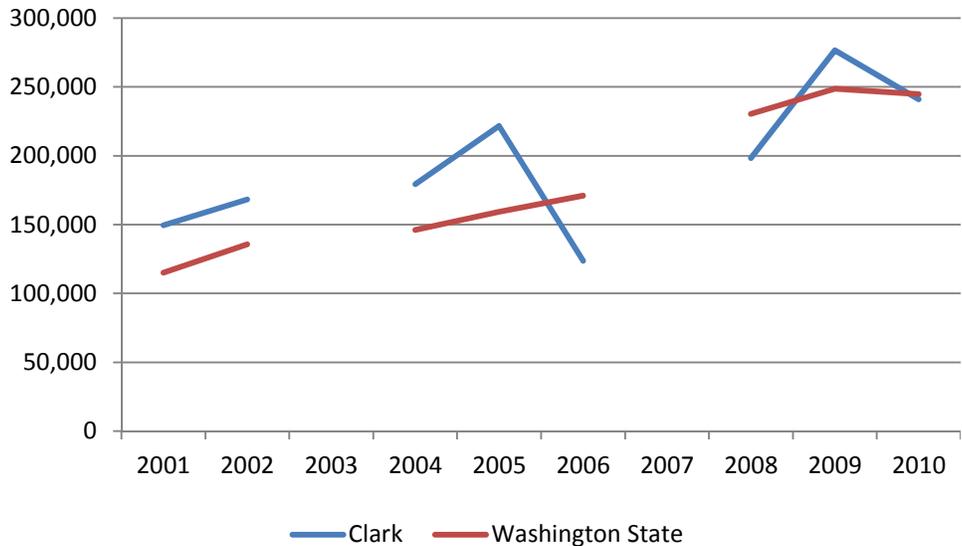
Exhibit 3: Average Current Use Reduction Value per Acre



Source: Washington Department of Revenue, 2011; BERK, 2012

On an average enrollee basis, Clark County enrollees are achieving the same amount of tax basis relief as others across the state (Exhibit 4). Keep in mind that this savings is achieved on an acre basis that is a tenth of the state average (see Exhibit 1).

Exhibit 4: Average Current Use Reduction Value per Enrollee

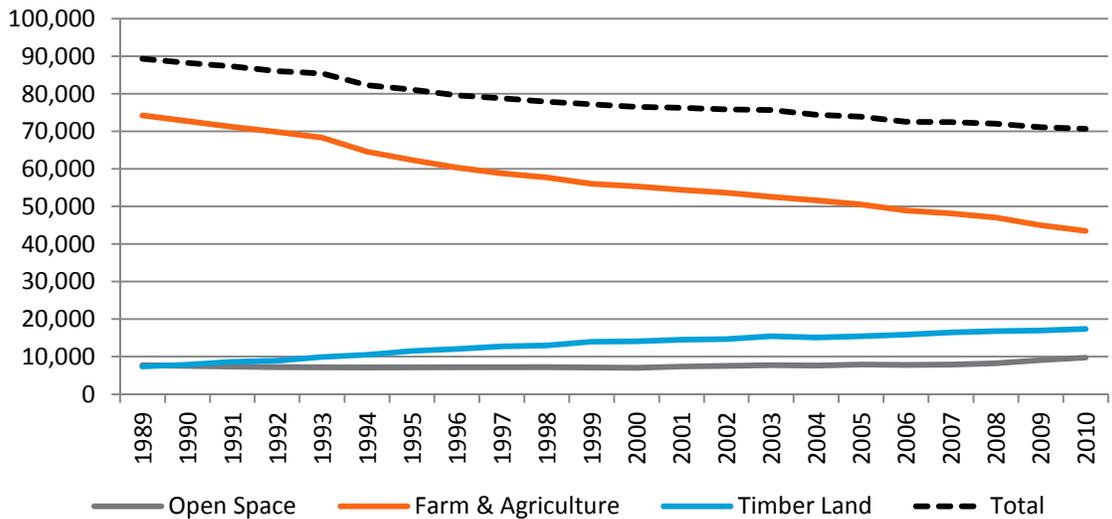


Source: Washington Department of Revenue, 2011; BERK, 2012

5.2 Acres Covered

The coverage of the program (in acreage terms) has fallen over the past 20 years at a rate of 1% primarily driven by reduction in farm and agricultural land (-4% growth). The rate of decline has been buffeted by increases in open space (1% growth) and timberland (4% growth). Exhibit 5 shows the long term coverage of the program. In 2010, 70,620 acres were covered by the program (roughly 18% of the County's land area).

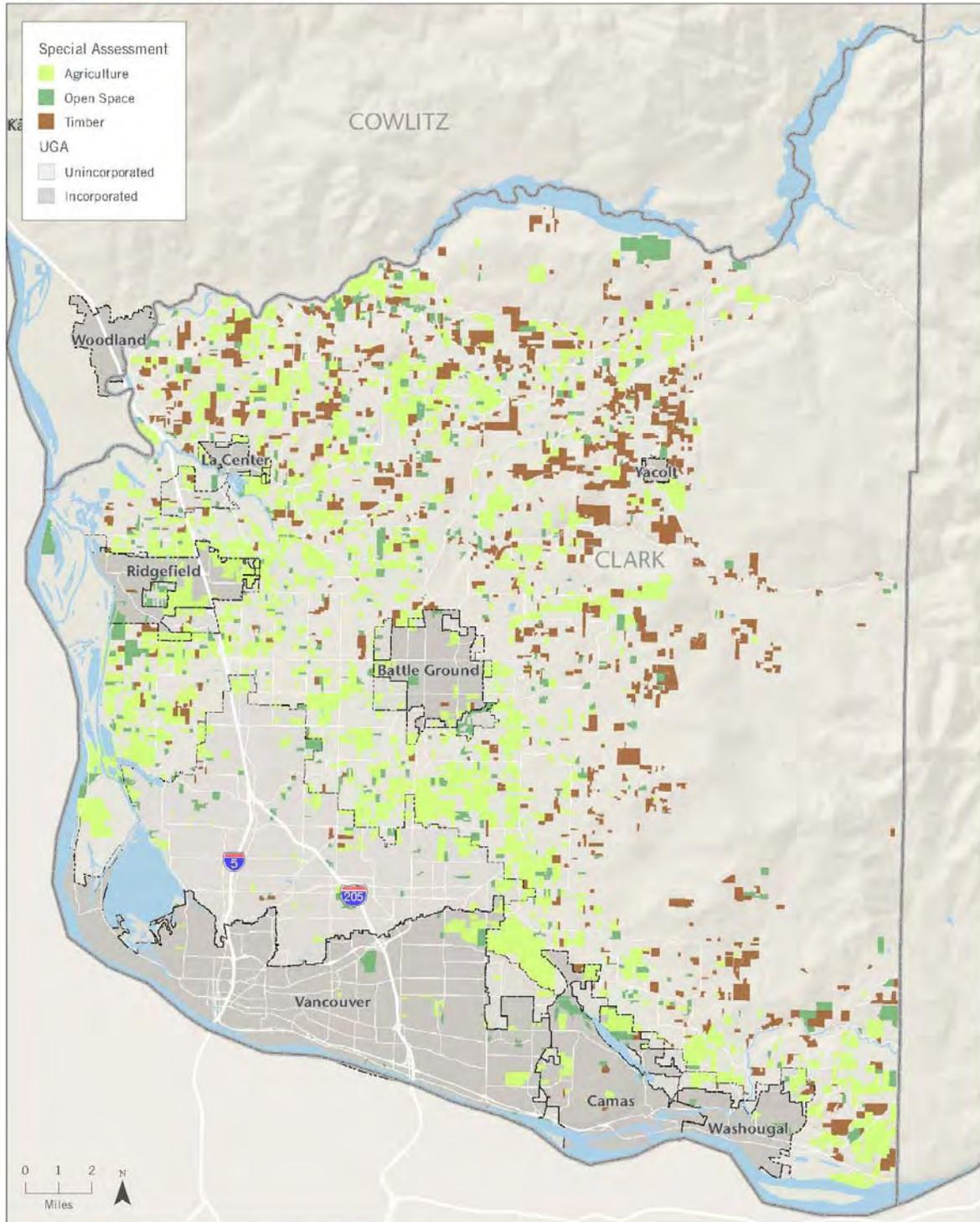
Exhibit 5: Total Annual Acres by Current Use Category



Source: Clark County Assessor, 2011; BERK 2012

The location of parcels by current use type is shown in Exhibit 6.

Exhibit 6: Location of Parcels in Current Use (2011)

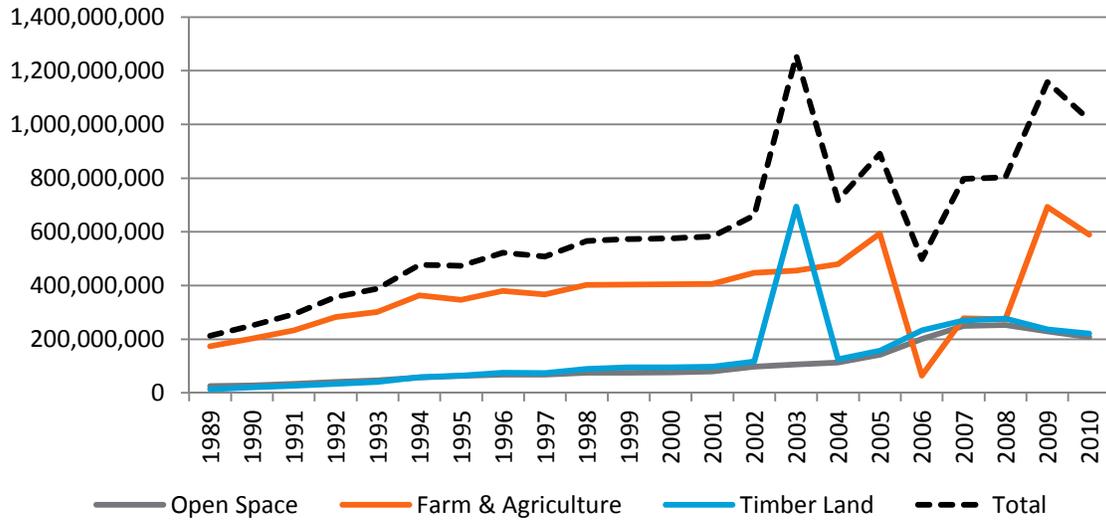


Source: Clark County Assessor, 2011; BERK 2012

5.3 Total Current Use Value

As noted above, the Current Use program reduced the fair and true value of land from \$1,035,342,038 to \$17,467,785 in the County in 2010; a reduction of \$1,017,874,253. Exhibit 9 shows the distribution of that reduction over the last 20 years. Farm and Agriculture represent 58% of the tax relief granted by the program. Open space accounts for 20% and timberland for 22%.

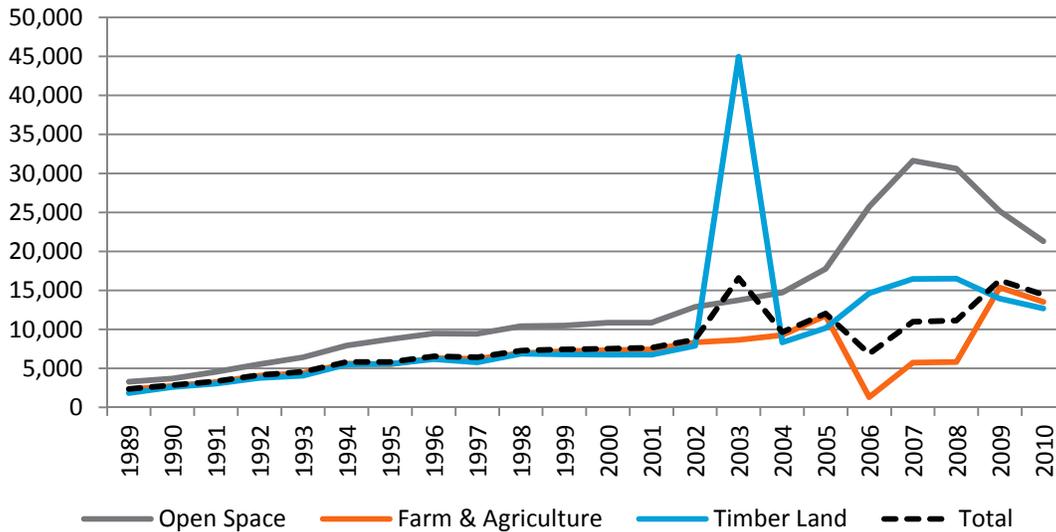
Exhibit 7: Total Current Value Reduction by Current Use Category



Source: Clark County Assessor, 2011; BERK 2012

On a per acre basis, the open space provides the largest “value” on value reduction. At \$21,200 per acre, it is roughly \$7,000-\$8,000 more than the other two current use categories in 2010.

Exhibit 8: Total Current Value Reduction by Current Use Category (per acre)

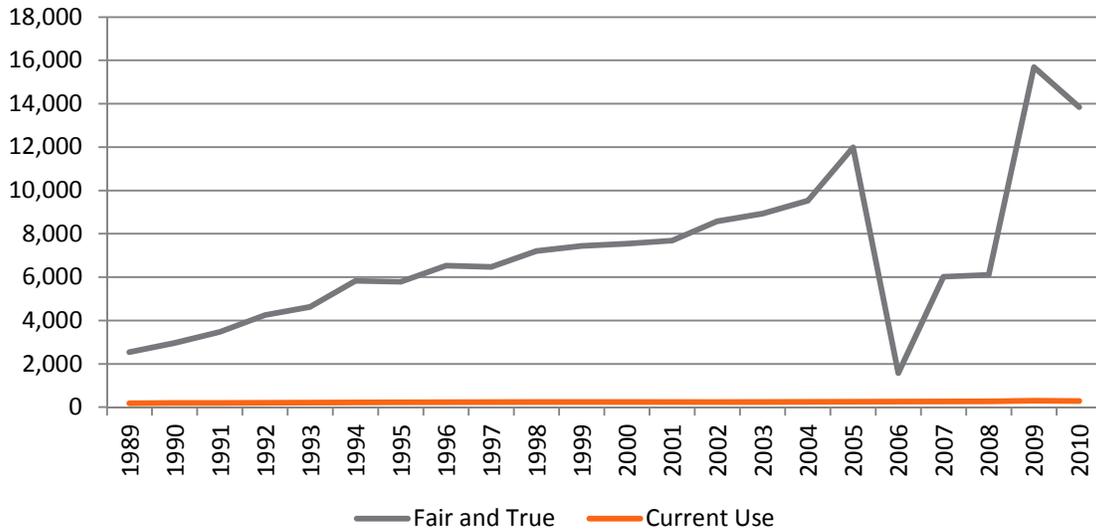


Source: Clark County Assessor, 2011; BERK 2012

5.4 Value Reduction by Current Use Type

Exhibit 9, Exhibit 10, and Exhibit 11 show the amount of reduction relative to the true and fair value of the land by current use type. Overall, all three Current Use designations allow relatively equal amounts of tax relief benefits by reduction value.

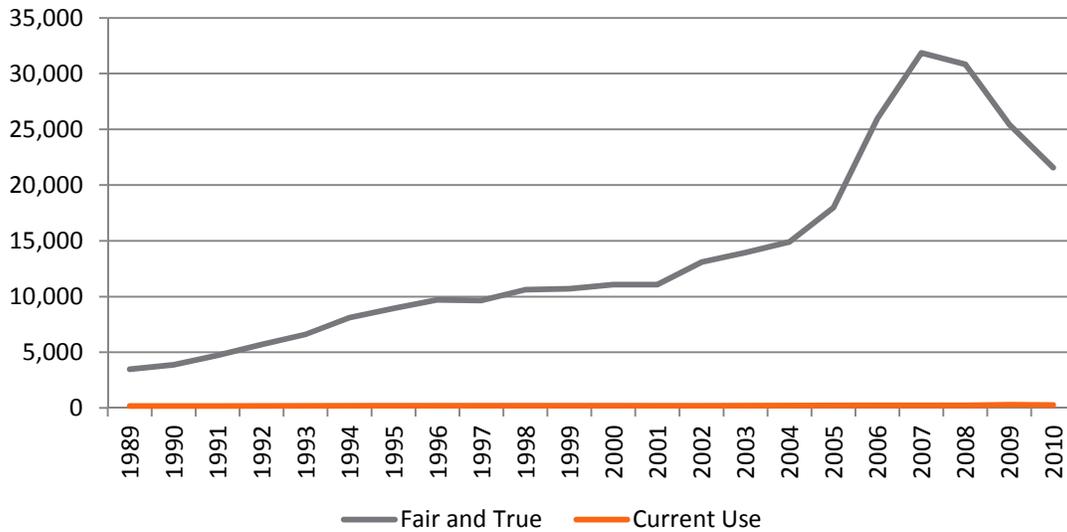
Exhibit 9: Comparison of True and Fair Value to Current Use (per acre): Farm and Agriculture



Source: Clark County Assessor, 2011; BERK 2012

- Farm and Agriculture
 - True and fair value per acre grew at a rate of 8.4%
 - Current use value fell at a rate of 2.0%

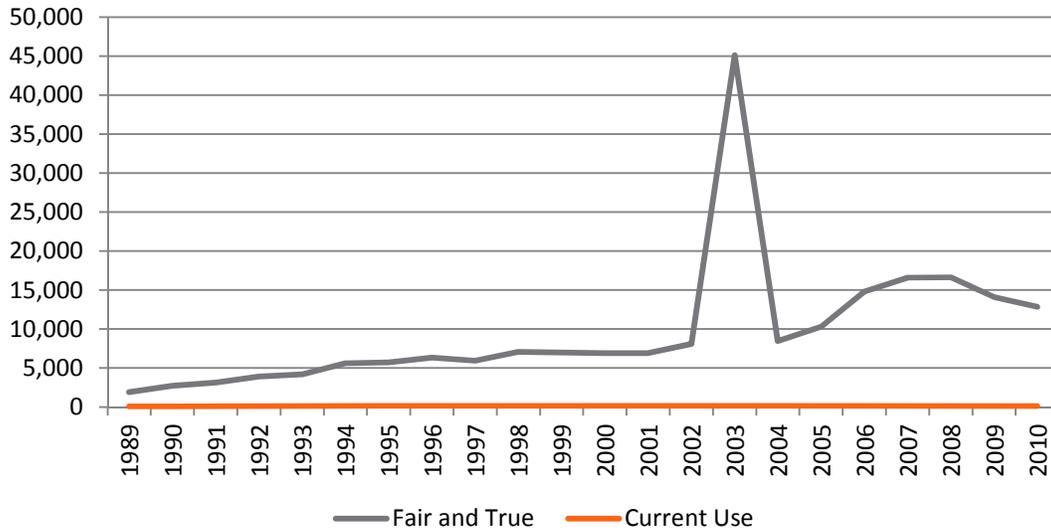
Exhibit 10: Comparison of True and Fair Value to Current Use (per acre): Open Space



Source: Clark County Assessor, 2011; BERK 2012

- Open Space
 - True and fair value per acre grew at a rate of 9.1%
 - Current use value fell at a rate of 2.4%

Exhibit 11: Comparison of True and Fair Value to Current Use (per acre): Timberland



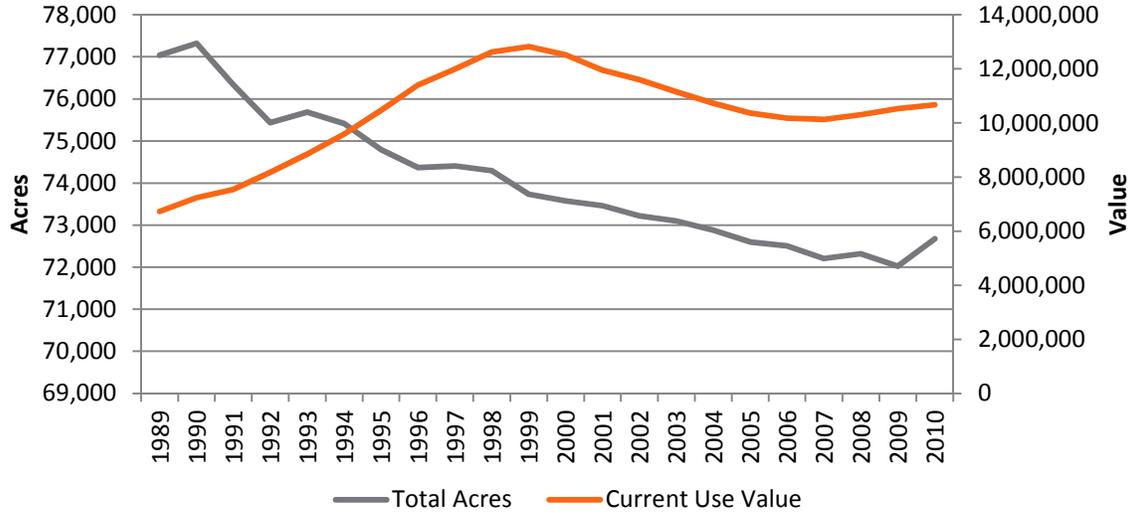
Source: Clark County Assessor, 2011; BERK 2012

- Timberland
 - True and fair value per acre grew at a rate of 9.5%
 - Current use value fell at a rate of 2.1%

6.0 SUMMARY OF DESIGNATED FOREST LAND PROGRAM

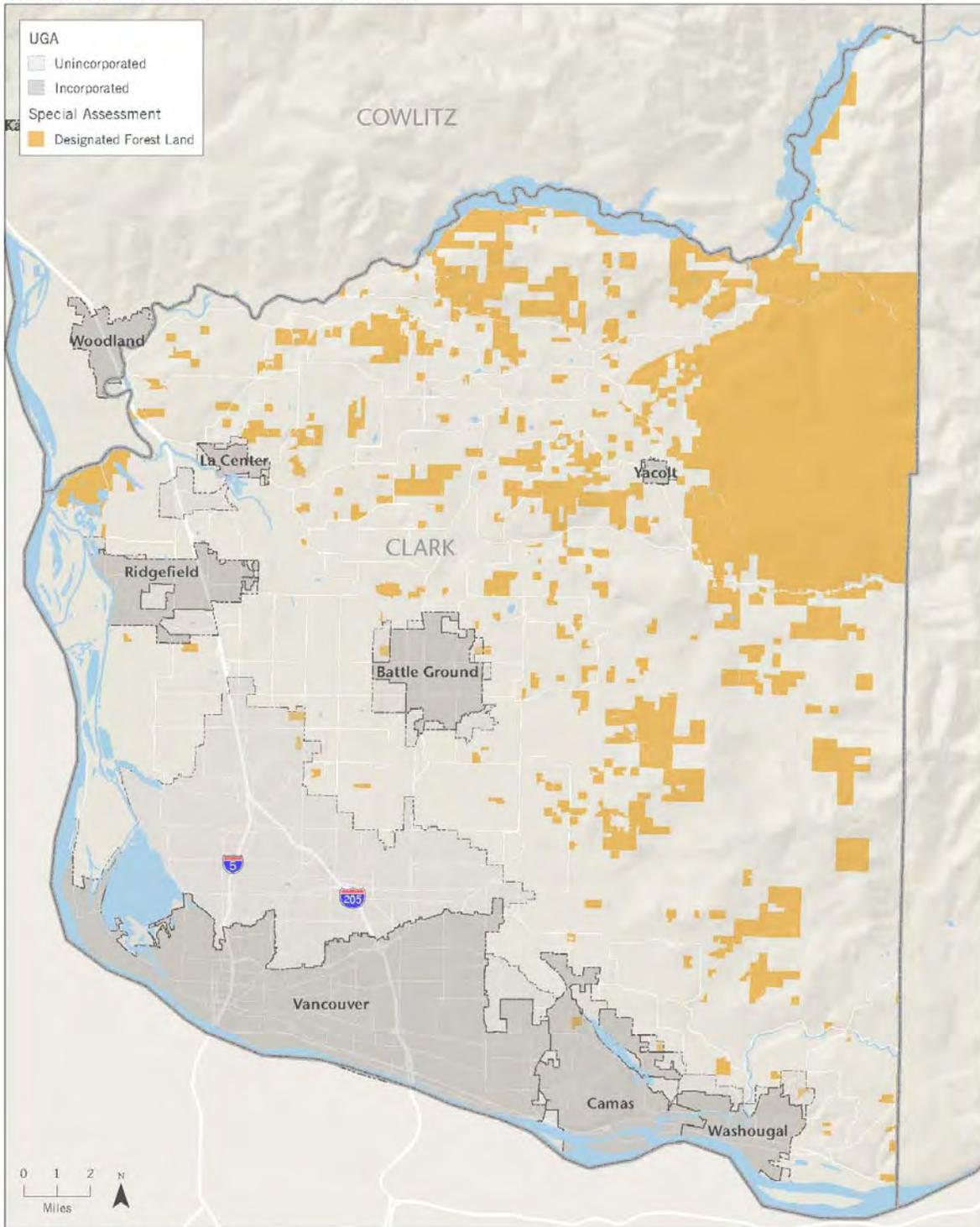
The Designated Forest Land program functions similarly to the Current Use program. Over the last 20 years, the program covers fewer acres (72,600 in 2010); however, the value per acre of that land has increase substantially (Exhibit 12). Exhibit 13 shows the location of the parcel in designated forest land – primarily in the northern and eastern portions of the County.

Exhibit 12: Total Annual Acres and Value by Designated Forest Land



Source: Clark County Assessor, 2011; BERK 2012

Exhibit 13: Locations of Parcels in Designated Forest Land Program



Source: Clark County Assessor, 2011; BERK 2012

7.0 DISCUSSION OF KEY ISSUES

7.1 Current use is a significant program in Clark County

In absolute terms, Clark County had the most enrollees for 2010 as well as the most land value reduced due to current use of all 39 counties in Washington State. Over a third of the County gross land area is in some form of “current use” tax relief. In 2010, the Current Use program covered some 75,000 acres. The Designated Forest Land program covered an additional 73,000 acres. Subsequently, significant public resources are dedicated to support the program goals in the form of a tax burden shift among property tax payers due to the legislative restrictions on levy growth.

The Current Use program represents a shift in tax burden (or “subsidy” to) from program applicants to non-applicants. Even though current use properties receive a reduction in their property taxes paid, taxing districts are still able to collect their full legal levy limit (e.g. for the County this would be the .1% property tax revenue increase plus the value of new construction within the County). This is because taxing districts collect property taxes based on taxable value, which means that the tax obligation for the district is shifted to the other taxpayers within the district. In 2011, the property tax payers not in the Current Use program paid, on average, about 3% more for the reduction in assessed value for those parcels in Current Use (Timber, Farm, and Open Space) than they would have had those parcels been taxed at the true and fair value. This shift represents a large investment by taxpayers in support of the program goals.

7.2 The County has limited control in program structure for either Current Use or Designated Forest Land programs.

Both the Current Use and Designated Forest Land taxation programs are State programs administered by the counties. Program intent and guidelines are spelled out in RCW 84.34 and 84.33 and the Washington Administrative Code (WAC), Chapter 458-30. The counties’ roles are primarily centered on program administration and enforcement. The County does have discretion in the structure of the Open Space current use application and evaluation.

7.3 A Public Benefit Rating System has the potential to better calibrate the “public cost” of the program to “public benefits”.

One of the few places where the County does have program discretion is the structure of the Open Space portion of the Current Use program. As stated above, the Current Use program is a sizeable investment by the County’s residents. Additionally, Open Space current use provides enrollees the greatest amount of benefit (value reduction per acre) and has been showing modest growth in terms of land covered over the past 20 years.

Given this investment, Counties have the option to install a Public Benefit Rating System (PBRs) as the means to operationalize the current use program that creates a weighted evaluation method tied to the amount of current use value reduction. PBRs are based on a point system and are assigned to each qualifying resource and/or bonus categories as identified in a County’s Open Space Plan. The total points awarded for an applicant’s PBRs directly translate into some percentage reduction in land taxable assessed value.

7.4 Increased program enforcement may ensure that public investment in the program meets its stated goals

The program is designed to make sure that property tax bills do not become the impetus for changes in land use. To this degree, it can be argued that the program has substantially reduced the property tax exposure of program enrollees and meets the legislative intent. However, there is also potential for program abuse particularly in granting of reduction in the Farm and Agriculture value. The thresholds established in the RCW relating to qualifying for this use translate to a relatively low land yield; particularly for parcels less than 5 acres (e.g. must generate at least \$1,500 per acre in commercial agricultural products).

The concern here is that applicants may “game” the program and use the tax benefit to support a rural residential lifestyle under the auspices of farm and agricultural use. In this regard, there is alarm that the program may facilitate increases in rural housing densities and create additional pressures on those same lands and uses that the laws were designed to conserve. This proves a difficult proposition to measure given the complexity of the issue. The program itself provides an internal check on this problem by ensuring a commensurate amount of value reduction is available to applicants. This appears to be the case with both the absolute and growing amount of current use value reductions experienced within the County. Regardless, more program enforcement would help ensure that program goals are achieved across the current use types.