



POLICY BRIEF

Farmland preservation laws do more harm than good for farm families

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March 2017

Key Findings

1. *Natural declines in farmland are used to justify excessive, unnecessary land-use regulations that are harmful to local economies and farm families.*
2. *Pierce County and other areas of Washington cite disappearing farmland as evidence to support restrictive policies like the Growth Management Act. However, land-use regulations like GMA are not effective or necessary.*
3. *Land-use regulations prioritize acreage over farmers, encouraging policies that save land without understanding the implications of excessive regulatory burdens on farm viability.*
4. *Land ownership is the primary risk management tool available to farm families in managing their farm operations. Land-use planning laws remove the land's value from farm families.*
5. *From 2007-2012, cropland experienced a net increase of four million acres, with the majority converted from the federal government's Conservation Reserve Program. The majority of acreage removed from cropland was converted to pasture, not development.*
6. *Land-use controls in Oregon, Kentucky, and Florida illustrate the excessiveness and pointless existence of such programs. Local solutions with local input can do more to effectively protect community interests.*



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3	<i>Introduction</i>
3	<i>Background</i>
3	<i>Pierce County's farmland situation</i>
6	<i>Logic behind land conversion decisions</i>
7	<i>Farmland statistics</i>
10	<i>Best (Worst) Management Decisions in Land-Use Policy</i>
15	<i>Conclusion</i>

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Introduction

Some in Pierce County, Washington are troubled by the gradual decline in agricultural land and politicians are responding with calls for more stringent farmland protection. These calls, however, are unwarranted and regulations designed to protect farmland often end up harming local economies while doing little to improve agricultural viability.

As concerns over farmland escalate, and state regulatory pressure builds, adoption of additional land-use planning laws and regulations may be the straw that breaks the camel's back, actually making it more difficult for local farmers. This study examines the background behind land-use planning, Pierce County's farmland situation, statistics and trends regarding disappearing farmland, best – and worst – management practices from other states, and policy recommendations to protect Washington's agricultural land.

Background

An understandable desire exists in many people to protect open space and farmland and the public places *an inherent value* in the protection of these lands. The value of open space, however, is impossible to quantify because much of it is subjective. To prevent development of these spaces, politicians turn to land-use planning laws.

Taking a “not-in-my-backyard” approach to government regulation, land-use planning often ignores market forces and farmland statistics. Pierce County is a perfect illustration.

Pierce County's farmland situation

On August 8, 2016, KING 5 TV (NBC) aired a report on “Protecting Pierce County Farmland.”¹ Reporters focused on the development of prime agricultural farmland and the risk that poses to “food security.” Other local news outlets covered the story, identifying the 60 percent loss in agricultural lands in Pierce County.

¹ “Protecting Pierce County farmland,” by Jenna Hanchard, TV Report, KING 5 News, August 8, 2016 at <http://www.king5.com/news/local/protecting-pierce-county-farmland/291223576>.

Those pushing for more aggressive land-use laws in Pierce County justify increased regulation on the notion of food security. Former County Executive, Pat McCarthy, who led a failed attempt in 2015 to increase the amount of agricultural land said, “Who knows if we have to feed ourselves in the future off of this land?”²

This is not the first time such an argument has been made.

In 2012, an article in *Crosscut* highlighted a report by American Farmland Trust which showed the alarming loss of farmland in the Puget Sound region.³ Similar food security arguments were used to push for the adoption of additional land conservation tactics. Washington Policy Center’s Environmental Director Todd Myers was quoted opposing such tactics because when it comes to food production, “It’s better to grow food efficiently and ship it to the consumer than to grow food inefficiently where the consumer lives.”⁴

Most recently, Pierce County officials commissioned a second study from consulting firm Barney and Worth, Inc. (a previous study was commissioned in 2006).⁵ The study evaluated the county’s agricultural land. Barney and Worth concluded that Pierce County complies with the goal of preserving Agricultural Resource Lands (ARL) under the Growth Management Act (RCW 36.70A.040). However, the Barney and Worth study suggests the current zoning, though in compliance with state law, “doesn’t protect Pierce County’s most productive farmland.”⁶

Instead of recognizing a government failure within the Growth Management Act, Pierce County Council members voted unanimously for Resolution R2016-114s on September 27, 2016, sponsored by Councilmember Derek Young.⁷ This resolution

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- 2 “Stop fiddling around, save Pierce County farmland,” by The News Tribune Editorial Board, Article, *The News Tribune*, August 13, 2016 at <http://www.thenewstribune.com/opinion/article95405592.html>.
 - 3 “Losing Ground: Farmland Protection in the Puget Sound Region,” by Dennis Cauty, Alex Martinsons, and Anshika Kumar, Report, American Farmland Trust, January 2012 at http://www.farmlandinfo.org/sites/default/files/AFTLosingGroundReportWeb-1_1.pdf.
 - 4 “Will the last farmer to leave Puget sound please wish us luck?” by Berit Anderson, Article, *Crosscut*, February 1, 2012 at <http://crosscut.com/2012/02/will-last-farmer-leave-puget-sound-please-wish-us/>.
 - 5 “A Fresh Look at Pierce County Agriculture,” by Eric Eisemann and Bruce Prenguber, Barney & Worth Team and Globalwise, Inc., Technical Memorandum #6 – Evaluation of Pierce County Zoning Regulations, June 30, 2016 at http://www.freshlookatpierceag.org/wordpress/wp-content/uploads/2016/09/Tech_Memo_-6-Evaluation-of-Pierce-County-Zoning-Regulations.pdf.
 - 6 “A Fresh Look at Pierce County Agriculture: Findings and recommendations” by The Barney and Worth Team, Report, Barney and Worth, September 12, 2016 at <http://www.freshlookatpierceag.org/wordpress/wp-content/uploads/2016/09/Findings-and-Recommendations.pdf>.
 - 7 “Resolution R2016-114s,” Website, Pierce County Washington, September 27, 2016 at https://councilonline.co.pierce.wa.us/councilonline/proposal/proposal.htm?proposal_num=R2016-114s.

expands the criteria of ARL lands within Pierce County, increasing acreage from 22,951 to 30,918 acres.⁸

Recognizing the challenges posed by GMA's central planning, the resolution attempts to localize efforts by designating four agricultural regions within the county. Even this concern for area specific criteria makes mistakes which hurts Pierce County's agriculture industry. Three major mistakes of the revised recommendations are:

1. Land classification continues to poorly designate agricultural acres;
2. They ignore underlying regulatory challenges to farmers; and
3. They focus too heavily on acreage protection not farmer protection.

Land Classification

Relying upon bureaucratic oversight, the recommendations continue to use five criteria to determine ARL classification: the land is located outside urban growth areas, it meets a minimum parcel size, it meets a prime soils criterion, it satisfies a productivity requirement, and more than 50 percent of abutting parcels must be greater than 1 acre.⁹ The criteria result in frequent errors, hurting local farmers.

Land classification ignores the expertise of local farmers, substituting central planning to dictate classification of ARL parcels. Two examples illustrate the potential challenges with land classification.

Example 1: Due to minimum lot size classifications, a farmer who has two non-contiguous fields does not receive the ARL classification because each lot is smaller than 5 acres when considered separately. The farmer is forced to pay a higher tax rate for land used for agricultural purposes.

The quick answer would be to sell the land to a higher value, but this is not possible. The fields are Dupont muck (12A), a fertile soil that is not suitable for building or development but excellent for agricultural production. Ironically, in the quest to protect productive farmland, Pierce County has increased taxes for some farm families with highly productive farmland.

Example 2: A viable agricultural industry is sustained through supporting infrastructure and businesses. If a 20-acre ARL plot is of interest to an agricultural business, like a processing facility, the permit would be denied. Instead, the business would need to relocate to non-ARL land that may be a sub-optimal location. As a result, ARL zoning can limit the development of beneficial agricultural industry, which would do more in growing the agricultural region than acreage protection.

⁸ "Pierce County 2016 Comprehensive Plan Amendments Agricultural Resource Lands – Amending the Designation Criteria Summary," Pierce County, at <http://www.co.pierce.wa.us/DocumentCenter/View/44585>.

⁹ "A Fresh Look at Pierce County Agriculture: Findings and recommendations" by The Barney and Worth Team, Report, Barney and Worth, September 12, 2016 at <http://www.freshlookatpierceag.org/wordpress/wp-content/uploads/2016/09/Findings-and-Recommendations.pdf>.

Regulatory Challenges

It is important to recognize that agricultural regulation has a disproportionate impact on small farmers.¹⁰ Farmland protection under GMA is no exception. Small farmers are more likely to experience situations described in the first example, which prevent their operations from receiving ARL benefits because of minimum lot size requirements.

However, the challenge goes beyond GMA's burden on small farmers. Instead of focusing on the primary threat posed by the increasing regulatory burden to the agricultural industry, Pierce County is addressing the superficial aspect of farm acreage. The agricultural industry within Pierce County and Washington would be better supported if excessive regulatory burdens were scaled back and discouraged.

Acreage versus Farmer

Prioritizing acreage over farmers, GMA zones miniscule parcels of 5, 10, or 20 acres into ARL, which are of little agricultural value.¹¹ The new recommendations from the Barney and Worth study recommend increasing the parcel size to a minimum of ten acres in three of the four zones and 40 acre minimums in the fourth zone.

However, much of Washington's 15.1 million farmed acres are not zoned explicitly for agricultural use.¹² This illustrates the lack of influence GMA has on the protection of productive and commercially viable farmland. A report by American Farmland Trust said, "There seems to be little hope that Washington's Growth Management Law can prevent the fragmentation of our land base."¹³

In the end, these regulatory attempts to protect farmland have become an empty symbol which are more likely to destroy the farmer in Pierce County.¹⁴

Logic behind land conversion decisions

Though disappointing for some to see once open space become occupied by pavement, excessive burdens on property owners are impractical and unfair. Land-use planning laws put a disproportionate burden on land owners by removing value

10 "2015 Washington State Farmland Preservation Indicators," by Washington State Conservation Commission Office of Farmland Preservation, at <http://ofp.scc.wa.gov/wp-content/uploads/2016/01/REGULATORY-BARRIERS.pdf>.

11 "WSDA Future of Farming Project: Discussion Paper on the Impact of Environmental Regulation on Washington Agriculture: Challenges and Opportunities," by Don Stuart, Report, American Farmland Trust, October 2008, at http://action.farmland.org/site/DocServer/Impact_of_Environmental_Regulation_on_Washington_Agricul.pdf?docID=1481.

12 *ibid*

13 *ibid*

14 "Why Some Farmers Don't Want the Government to Save Their Land," by Will James, Radio, KNKX, August 18, 2016 at <http://knkx.org/post/why-some-farmers-dont-want-government-save-their-land>.

from their agricultural operations. Yet the laws ask nothing of the society who imposes the rules and benefits from the existence of that open space.

For farm families, land ownership is the primary risk management tool available to their operations. It constitutes their retirement plan, medical insurance, business collateral, college student savings, and more. Land-use planning laws, like GMA, reduce the value of their agricultural lands, by precluding other uses for the land, removing much of its value. Allowing markets to function freely would retain the ability for land owners to transfer their land to the most valuable purpose. Although politicians see the political benefits of protecting farmland, they ignore the reality that the costs of such protection are borne entirely by the farmers they claim to be supporting.

Within Pierce County, agricultural land values increased 47.3% from 2002 to 2012.¹⁵ Some estimates value land in Pierce County as low as \$50,000 to as high as \$1 million per acre.¹⁶ Increasing the number of ARL acres will zone more farmland into lower value categories, effectively removing a portion of the value from farm families. It is estimated that 75% of the land currently in agriculture production in Washington has a fair market value which exceeds its value as productive farmland.¹⁷

Concerned with the obvious, farmland restrictions, like GMA, focus efforts on protecting farmland without concern for the farmer or respect to their management choices. In fact, there is no designation that the agricultural resource lands must be actively operated by a farmer.

Farmers restricted by GMA are unable to leverage the full value of the land to expand operations, cover costs in bad years, or facilitate the transfer of the farm to the next generation. GMA limits choice for farm families by forcing them out of business without the opportunity to sell their land to a higher value purpose.

Farmland statistics

Washington state is not alone in its concern for disappearing agricultural land. Urban sprawl trends of the 1970s warranted a federal study called the National Agricultural Lands Study (NALS) published in 1981. NALS concluded that within 20 years Florida, New Hampshire, and Rhode Island would lose all its prime farmland.

Thirty years later none of these predictions have come true. In fact, Florida and Rhode Island were ranked 3rd and 4th nationally in farmland increases from 2007

¹⁵ USDA Census of Agriculture

¹⁶ “Preserving Farmland and Farmers – Pierce County Agriculture Strategic Plan Summary Report,” by Barney & Wroth, Inc and Globalwise, Inc., Prepared for: Pierce County Washington Economic Development Division, January 2006 at <https://www.co.pierce.wa.us/DocumentCenter/View/2908>.

¹⁷ “WSDA Future of Farming Project: Discussion Paper on the Impact of Environmental Regulation on Washington Agriculture: Challenges and Opportunities,” by Don Stuart, Report, American Farmland Trust, October 2008, at http://action.farmland.org/site/DocServer/Impact_of_Environmental_Regulation_on_Washington_Agricul.pdf?docID=1481.

to 2012.¹⁸ New Hampshire also had a net gain in farmland. In New England, the national trend in farmland loss was debunked due to market demand for the farm-to-plate movement.¹⁹

Florida, Rhode Island and New Hampshire exemplify the unfounded exaggeration which often accompanies the land-use planning discussion. Studies, like NALS, encourage government intervention in land markets, ignoring multiple factors which influence the rate at which farmland disappears.

Farmland loss is often an example of healthy markets promoting sustainable choices. Acres removed from agricultural production are frequently low production lands transferred out of operation, while cropland is increased in other regions or converted to timber land.

Cropland acreage experienced a net increase from 2007 to 2012 of almost four million acres, which is infrequently referenced in farmland protection literature because it impedes the argument for land-use regulation. The four-million-acre increase, equivalent of a one percent gain, occurred after 25 years of consistent losses to farmland nationally.

Markets, not government programs, influence how land is ultimately used. Increases in crop prices from 2007 to 2012 incentivized farmers to convert 5 million acres of land from the federal government's Conservation Reserve Program (CRP) into active agriculture production.²⁰ In addition to CRP ground, farmers converted over 6 million acres of pasture, range, forest, and developed acres to farm ground. Total gross gains to cropland were upwards of 11 million acres during that period.²¹

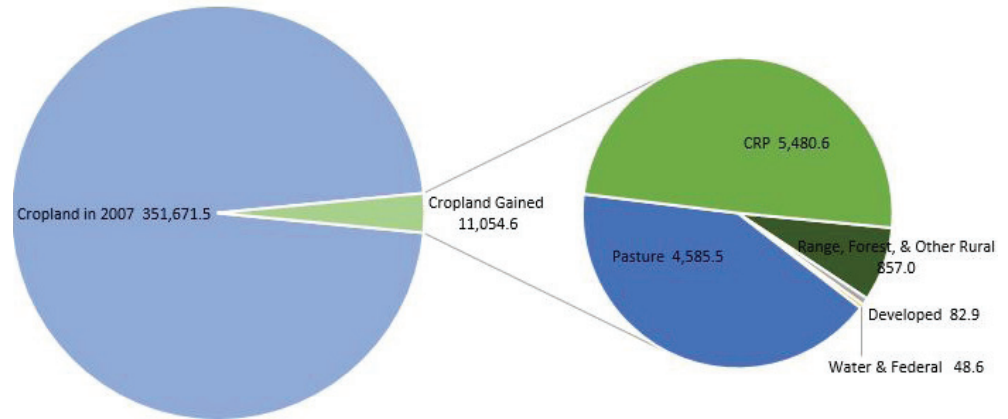
18 USDA Census of Agriculture

19 "More Farmers Till More Land in N.H. and New England," by Emily Corwin, New Hampshire Public Radio, February 20, 2014 at <http://nhpr.org/post/more-farmers-till-more-land-nh-and-new-england#stream/0>.

20 "Record-high crop prices spur conversion from grasslands to cropland," by news@agweek.com, AgWeek, October 10, 2013 at <http://www.agweek.com/crops/3791297-record-high-crop-prices-spur-conversion-grasslands-cropland>.

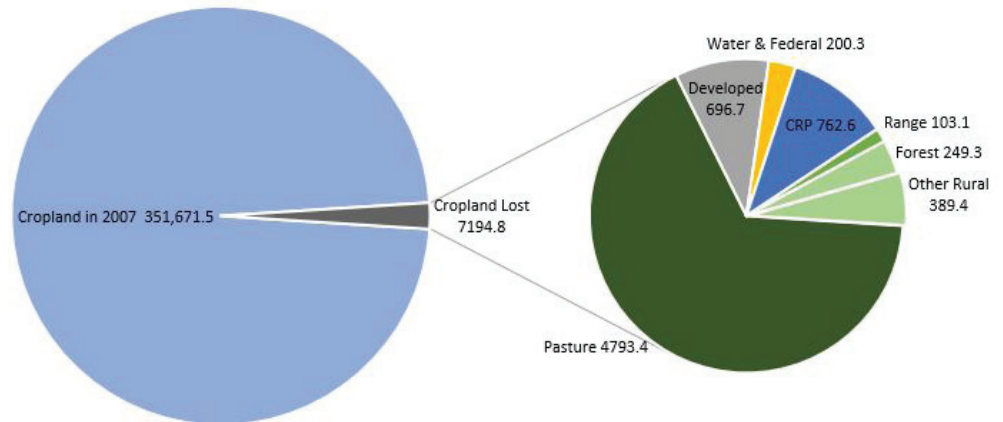
21 "National Resources Inventory," by United States Department of Agriculture, 2015, Summary Report: 2012, Natural Resources Conservation Service, at https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcseprd396218.pdf.

National Gains to Cropland in 2012, Thousands of Acres



Farmers need the flexibility to make land-use decisions because government oversight in land conversion decisions narrow-mindedly focuses on development when farmers have many other options. As the chart below indicates, converted cropland does not always become development. In fact, only 10 percent of the 7 million acres of converted cropland between 2007 and 2012, were developed.²²

National Conversion of Cropland in 2012, Thousands of Acres



Cropland conversion statistics show sustainable decisions are being made which protect productive farmland, while less productive land is converted. From 2007 to 2012, the cropland loss experienced in Washington was offset by a conversion of 125,000 acres out of Conservation Reserve Program and an increase of 134,000 acres

²² “National Resources Inventory,” by United States Department of Agriculture, 2015, Summary Report: 2012, Natural Resources Conservation Service, at https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcseprd396218.pdf.

of pastureland.²³ Forest conversion also saw its lowest loss in thirty years over this time-period.

However, the continued loss of overall cropland in Washington state becomes even less alarming upon closer examination of the statistics. A general statistic in farmland loss is used to scare policymakers into supporting unneeded land-use policies. Washington state has experienced a 1.5 percent decrease in farmland from 2007 to 2012, ranking it 13th in the nation for farmland loss.

However, from 2007 to 2012, Washington saw a net gain in *cultivated* cropland of 0.7 percent, with a 2.7% increase in irrigated acres and a 0.2 percent increase in non-irrigated acres. The loss from farmland came from less productive, non-cultivated cropland, which includes permanent hay rotation and horticultural crops, neither of which are significantly important to food security.

Best (Worst) Management Practices in Land-Use Policy

Despite evidence supporting the sustainability of free markets in land purchases, 47 states have various methods of land-use planning.²⁴ Washington's Growth Management Act, Oregon's Farmland Protection Program, Kentucky's farmland preservation tax, and Florida's Growth Management Act are all examples of land-use protections whose costs far exceed the limited benefits.

Land-use Controls: Washington's Growth Management Act

Thirteen states, including Washington, have implemented various forms of growth management laws, which are a subset of land-use planning regulations. Washington's Growth Management Act (GMA) ranks fourth in the nation for stringency and was adopted in 1990.²⁵ Twenty-nine counties joined GMA (many were required by law), encompassing 95 percent of Washington's residents.²⁶

GMA has contributed to rising home prices, escalating land values, and eroded property rights of Washington residents.²⁷ Supporters of GMA claim its necessity for

23 "National Resources Inventory," by United States Department of Agriculture, 2015, Summary Report: 2012, Natural Resources Conservation Service, at https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcseprd396218.pdf.

24 "Summary of state Land Use Planning Laws 2010 Edition," by Jim Schwab, American Planning Association and Institute for Business and Home Safety, 2010, at <http://slidehot.com/resources/summary-of-state-land-use-planning-laws.793223/>.

25 "The New Feudalism – Why States Must Repeal Growth-Management Laws," by Randal O'Toole, Policy Analysis, Number 802, CATO Institute, October 18, 2016 at <https://www.cato.org/publications/policy-analysis/new-feudalism-why-states-must-repeal-growth-management-laws>.

26 "The Evolution of Growth Management in Washington: 25 Years and Counting," by Paul Marshall Parker, J.D., at http://www.washington-apa.org/assets/docs/2015/Events/GMA_Gala_Event/parker_presentation_gma_25_years_and_counting.pdf.

27 "Housing Prices and Land Use Regulations: A Study of 250 Major US Cities," by Theo S. Eicher, University of Washington, May 2, 2008, at <http://faculty.washington.edu/te/papers/Housing051608.pdf>

the preservation of farmland, forests, and open spaces. This claim doesn't stand up to scrutiny.

GMA directs the state Department of Commerce to "adopt guidelines... to guide the classification of agricultural lands..."²⁸ Per the Department of Commerce "Lands should be considered for designation as agricultural resource lands (ARL) based on three factors:

- The land is not already characterized by urban growth;
- The land is used or capable of being used for agricultural production; and
- The land has long-term commercial significance for agriculture."²⁹

Under the direction of GMA, county-level governments attempt to classify ARL lands, but instead apply a vague, blanket definition to a diverse region, producing over 300 crops.³⁰

Of Washington's 39 counties who contributed to the total loss in farmland from 2007 to 2012, 14 experienced a net gain in total agricultural acres. Of these 14 counties, five were non-GMA counties (of the ten non-GMA counties in Washington). Furthermore, when we examine the change in irrigated acres from 2007 to 2012, seven of the ten non-GMA counties experienced an increase in acreage.³¹ There simply is no correlation between the existence of GMA restrictions and farmland protection.

Land-use Controls: Oregon

Oregon has some of the strongest agricultural zoning laws in the nation (third to Hawaii and California). Oregon's Farmland Protection Program (FPP) was designed to protect its agricultural assets which equate to 10 percent of their gross state product.

FPP preserves the roughly 28 percent of Oregon's land base as agricultural use, about 17.1 million acres in 2012. FPP attempts to preserve this land by mandating a minimum lot size of 80 acres for farmland and 160 acres for rangeland when zoned Exclusively Farm Use (EFU). 16.1 million acres are zoned EFU.³²

28 "Revised Code of Washington 36.70A.050 - Guidelines to classify agriculture, forest, and mineral lands and critical areas," effective date 1990, Washington State Legislature at <http://apps.leg.wa.gov/rcw/default.aspx?cite=36.70a&full=true#36.70A.050>.

29 "Washington Administrative Code 365-190-050 - Agricultural resource lands," effective December 3, 2010 at <http://app.leg.wa.gov/wac/default.aspx?cite=365-190-050>.

30 "2015 State Agriculture Overview Washington," by United States Department of Agriculture, National Agricultural Statistics Service, 2015 at https://www.nass.usda.gov/Quick_Stats/Ag_Overview/stateOverview.php?state=washington.

31 Ibid.

32 "Department of Land Conservation and Development Farmland Protection Program," by Oregon Department of Land Conservation and Development, at <http://www.oregon.gov/lcd/pages/farmprotprog.aspx>.

According to Oregon this program is working well, and the Oregon Department of Land Conservation and Development claims, “Just driving through the agricultural parts of the state provides persuasive evidence that EFU zoning has been able to protect large areas of land from conversion to other uses...” However, this program also limits the ability of an area to grow, by preventing the development of new business, industry, and residential neighborhoods. One such example of it “working” is in the poorest county in Oregon, Malheur County.³³

Malheur County is situated on the Eastern border of Oregon and is adjacent to Idaho’s Canyon County. There are significant differences between the two. The financial impact of land-use protection in Oregon is evident in a county 16 times larger than its Idaho counterpart with home costs 6 percent higher and median household income 25 percent lower.³⁴ FPP created an artificial decrease in land supply and limited the ability for industry to develop, jobs to be created, and increased county poverty to a level almost 10 percent higher than Canyon County. A similar comparison could be made to Payette County, Idaho which also borders Malheur County.

There are many reasons for the differences between Malheur County and its Idaho counterparts. The FPP designation is just one, but is significant. Limited to eighty acre minimums per house (160 acres for rangeland) many areas of Malheur County are unable to open land up for residential and industrial development.

Malheur County forfeits potential benefit from the development of rural land, to regions with more relaxed agriculture zoning laws. As a result, there is a drastic difference in the economic well-being of Malheur, Canyon, and Payette Counties. Geographically the counties are very similar. The regulatory restrictions of Oregon, however, have “protected” large areas of land at a significant cost to its residents.

Census Statistics ³⁵	Malheur Co., Oregon	Canyon Co., Idaho	Payette Co., Idaho
Population	30,380	207,478	22,896
Median value of owner-occupied housing units, 2010-2014	\$127,300	\$120,200	\$129,300
Building Permits, 2015	31	1,148	44
In civilian labor force, total, percent of population age 16 years+, 2010-2014	51.5%	62.3%	60.5%
Total Retail Sales, 2012 (\$1,000)	\$534,507	\$2,149,411	\$136,411
Median household income (in 2014 dollars), 2010-2014	\$34,380	\$43,108	\$44,257
Persons in poverty, percent	28.7%	18.0%	15.7%
Land area in square miles, 2010	9,887.53	587.37	406.87

In Idaho, county planning is done on a *local* basis leaving room for *local* experts to direct resources for residents. Land-use planning supporters claim such lax planning creates disregard for agricultural protection. However, Idaho was the

33 “Pacific Northwest’s Poorest Counties Face Harder Times than Nation,” by Lizzy Duffy, Oregon Public Broadcasting, January 12, 2015 at <http://www.opb.org/news/blog/newsblog/pacific-northwests-poorest-counties-face-harder-times-than-nation/>.

34 “Quickfacts,” by United States Census Bureau at <http://www.census.gov/quickfacts/table/PST045215/41045>.

sixth highest state in terms of land converted into farms from 2007 to 2012, with an increase of 2.3 percent.

The City Manager of Vale, in Malheur County, Lynn Findley says, “The movement of people to Idaho to build houses because they cannot find property in Malheur cannot be reflected in statistics to show a need for more housing.”³⁵

Oregon policymakers recognize the problem, but continue to allow poverty stricken counties, like Malheur, to bear the real cost of farmland restrictions in exchange for the intangible value of open land. Greg Macpherson, chairman of the Oregon Land Conservation and Development Commission said “We recognize that people in Northern Malheur County are frustrated seeing the difference in the approach to land use taken by their neighboring state... Under our system of government, where each state is sovereign on matters not assigned to the federal government, such differences between states are inevitable.”³⁶

Land-use Controls: Kentucky, Tax incentives

Farm preservation tax breaks are highly popular in land-use protection literature. However, implementation of farm preservation tax breaks is poorly administered, allowing frequent abuse of the system. Applying tax breaks, along with all land-use protections, require a perfect knowledge of current and future land demand.³⁷ This perfection is an impossibility.

Kentucky illustrates the high cost of farm preservation tax breaks.³⁸ Kentucky state law provides a tax break to save productive farms zoned as “agricultural.” Scores of misappropriated tax breaks have been found benefitting suburban homes with acreage, commercial lots, and industrial sites – a savings of almost 40 percent on tax bills to these land owners.³⁹ In Kentucky, this is an estimated revenue loss of \$98 million over two years that does nothing to preserve farmland.⁴⁰

Good intentions framed the foundation of Kentucky’s farmland preservation tax break in 1969. Voters wanted to protect farm families from development despite

35 “Who’s In Control? County says Oregon land-use laws put it at disadvantage,” by Larry Meyer, *The Argus Observer*, September 21, 2014 at http://www.argusobserver.com/news/county-says-ore-land-use-laws-put-it-at-disadvantage/article_6ffd8a06-4144-11e4-a58f-2ba73d48e141.html.

36 Ibid.

37 “Agricultural Land Protection: Is Government Intervention Warranted?” by E.C. Pasour, Jr., Professor of Economics at North Carolina State University, *Cato Journal* Volume 2, No. 3, Cato Institute, Winter 1982 at <https://object.cato.org/sites/cato.org/files/serials/files/cato-journal/1983/1/cj2n3-5.pdf>.

38 “Tax relief intended to save Kentucky farms helps pave them instead,” by John Cheves and Linda Blackford, *Lexington Herald Leader*, February 18, 2016 at <http://www.kentucky.com/news/local/watchdog/article61171117.html>.

39 “Tax relief intended to save Kentucky farms helps pave them instead,” by John Cheves and Linda Blackford, *Lexington Herald Leader*, February 18, 2016 at <http://www.kentucky.com/news/local/watchdog/article61171117.html>.

40 Ibid.

the rising land values in urban sprawl areas. However, the system is convoluted, burdensome, and ineffective.

Regulators were forced to make generalizations when assessing property values and many non-agricultural lands were zoned under the farm preservation tax break. In 1992, the Kentucky General Assembly scrapped the original rules. Now, most counties have automatic classification of farmland if the land parcel is 10 or more acres, even if the land is not currently in agricultural production.

The result is that Kentucky's farmland preservation tax break is futile. From 2007 to 2012, Kentucky saw a 6.7 percent loss in farmland, the largest decrease in the country. Some suggest that the current tax system slights farmers. Under the current system, non-farming land owners have no incentive to lease the land for agricultural use because the reduced tax rate is received independent of actual farming activity.

However, the magnitude of this abuse is ignored because it benefits a few, at no direct cost to the many paying their fair share of property taxes. On a national level, tens of billions of dollars are transferred from one group of taxpayers to another due to farmland preservation tax breaks.⁴¹ Farmland preservation tax breaks sacrifice income for public services and the welfare of taxpayers while offering a negligible benefit to farmers.

Land-use Controls: Florida, Growth Management Repealed

Recognizing a government failure, Florida partially repealed their state's Growth Management Act in 2011, 26 years after adoption.⁴² Florida recognized the cost to residents was too high to justify. Between 1999 and 2005, Florida experienced the most extreme decline in housing affordability when median incomes increased 20 percent and median home values grew by 146 percent.⁴³

However, effects of the repealed law still linger as local communities cling to growth management rules instituted on a local level. This continues to hurt low and middle-income families, as home prices in Florida rose by more than 30% in 2014.⁴⁴

Supporters of growth management may argue that Florida's legislation succeeded since farm acreage increased 3.43 percent from 2007 to 2012.⁴⁵ In fact,

41 "How other states guard against 'fake farmers,'" by John Cheves, *Lexington Herald Leader*, February 22, 2016 at <http://www.kentucky.com/news/local/watchdog/article61758422.html>.

42 "Florida lawmakers wipe out 30 years of growth management law," by Mary Ellen Klas, *Tampa Bay Times*, May 7, 2011 at <http://www.tampabay.com/news/environment/florida-lawmakers-wipe-out-30-years-of-growth-management-law/1168328>.

43 "The New Feudalism – Why States Must Repeal Growth-Management Laws," by Randal O'Toole, Policy Analysis, Number 802, CATO Institute, October 18, 2016 at <https://www.cato.org/publications/policy-analysis/new-feudalism-why-states-must-repeal-growth-management-laws>.

44 Ibid.

45 "Is Florida's Growth Management Act Protecting Agricultural Lands?" by Stephen Lloyd, Massachusetts Institute of Technology Department of Urban Studies and Planning, 2011, at file:///C:/Users/WPC%20AG/Downloads/766546292-MIT.pdf.

research citing GMA's success points to the loss of Florida farmland before 2007 as justification because it stemmed the tide. However, the growth of farmland in Florida from 2007 to 2012 occurred despite the repeal of GMA in 2011. Now local counties can provide local solutions to their citizens and tailor plans to their region.

Other market factors contributed to the growth of Florida's farmland, like favorable growing conditions for high-value crops, demand for agricultural products, as well as available land and water.

An investment by Farmland Partners in July 2016 demonstrates the importance of the other factors, like the high productivity of the land and the presence of supportive industries. Farmland Partners purchased 2,400-acres of timber and a quail preserve which will be converted into row crops used to produce feed for a nearby dairy.⁴⁶ The value gained from the conversion is expected to justify the \$9.4 million purchase and the \$6.5 million cost of converting the land to agricultural production.

Conclusion

Decades of farmland preservation regulations have increased burdensome policies with no direct benefit to agriculture, but they have created a high cost to residents and farmers themselves. Supporters of land-use restrictions rely upon sweeping generalities in regards to the success of land-use regulation, claiming that "just driving through" these areas demonstrate success. The few examples used to justify land-use regulation constitute a handful of acres scattered aimlessly throughout urban regions with minimal impact on agricultural production. The high costs of such regulation, however, are frequently overlooked.

One example cited by advocates of land-use regulation is in King County, where 12 acres of farmland were sold to a developer for \$4.5 million to build a subdivision.⁴⁷ To put this in perspective, 12-acres of agricultural land in King County would average \$6,156 in market value production per acre, which is \$73,878 for the entire 12-acre operation.⁴⁸ At a purchase price of \$4.5 million, it would take over 60 years to gain the equivalent return from agricultural production. Will the county make up that loss for the family? The county argues the restrictions benefit everyone, but the costs are borne only by the farm families they claim to support. Farm families lose their land's value to provide a supposed public benefit without just compensation.

In the understandable attempt to protect the value of open space and farmland, states have gone too far. Farmland preservation has become merely a symbol for land-use policies, increasing control and costs. The reality is that such regulation hinders farmland protection and hurts farm families.

46 "Farmland Partners Inc. to Acquire 2,400 Acre Florida Farm," by Farmland Partners Inc., July 7, 2016 at <http://www.prnewswire.com/news-releases/farmland-partners-inc-to-acquire-2400-acre-florida-farm-300295004.html>.

47 "Farmland Preservation and Policy," by Tilth Producers of Washington at <http://tilthproducers.org/2015/04/farmland-preservation-and-policy/>.

48 United States Department of Agriculture National Agricultural Statistics Service.

The examples presented above illustrate how land-use planning gets lost in red-tape without providing a justifiable, or explicit benefit to farmland or farmers. However, examples from Idaho, Florida and non-GMA counties in Washington show that free-markets and local jurisdiction can do more to protect efficient and viable farmland than bureaucratic oversight. Pierce County and all of Washington should allow economies to develop and prosper, and farm families to benefit from the work and risk they take every day by scaling back land-use regulation.

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An Oregon native, Madilynne brings a lifetime of experience in Agriculture to WPC. Her passion for agriculture grew as she helped her dad on veterinary calls and then became active in FFA.

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Madilynne holds a Master's Degree in Agricultural and Resource Economics from Colorado State University as well as a B.S. in Environmental Economics, Policy and Management from Oregon State University. When not working for WPC, she enjoys knitting, running, and every minute with her husband, newborn son, and their dog, Parli.