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Corrine Roesler
Geospatial Team Lead
Innovation and Adaptation Services
BC Ministry of Agriculture
Corrine.Roesler@gov.bc.ca

Avtar Sundher
Director of Operations
Agricultural Land Commission
ALCBurnaby@Victoria1.gov.bc.ca

CC: Mr. Nicholas Simons (nicholas.simons.MLA@leg.bc.ca); BC Green Caucus (greencaucus@leg.bc.ca); Mr. Ian Paton, MLA, Official Opposition Co-Critic for Agriculture (ian.paton.MLA@leg.bc.ca); Honourable Lana Popham, Minister of Agriculture (AGR.Minister@gov.bc.ca); James Mack, Assistant Deputy Minister (james.Mack@gov.bc.ca); Honourable John Horgan, Premier of British Columbia (Premier@gov.bc.ca); Honourable David Eby, Attorney General (AG.Minister@gov.bc.ca); BC Civil Liberties Association (maggie@bccla.org); Office of the Information and Privacy Commissioner for British Columbia (info@oipc.bc.ca)

Re: Ministry of Agriculture's intent to contract with MDA Systems Ltd. to provide radar satellite-based change detection services of residents on ALR Land

A Formal Complaint Under FIPPA Legislation

This letter is a formal complaint under FIPPA Legislation in BC, of the Ministry of Agriculture and ALC's joint contract with MDA Systems Ltd. to provide radar satellite-based change detection services of residents on ALR Land. We understand that the ALC and Ministry of Agriculture have 30 days to respond to this formal complaint.

We have concerns about the way the Ministry of Agriculture and ALC are handling, processing and storing our personal information, including images of our homes, and all persons on our ALR properties, including but not limited to; owners, renters, clients, workers and guests.

Given MDA Systems LTD is now [incorporated](#) in Delaware and managed from California by an American chief executive officer who reports to a board composed almost entirely of Americans, how is the BC Government ensuring the storage and access to our data is entirely in Canada.

We have concerns that the Ministry of Agriculture awarded the contract and began the pilot project and did not inform ALR land owners, residents, workers and clients that they would be under mass surveillance.

As per the OIPC, “A public body must ensure that an individual from whom it collects personal information is told (a) the purpose for collecting it, (b) the legal authority for collecting it, and (c) the title, business address and business telephone number of an officer or employee of the public body who can answer the individual's questions about the collection.”

In the Ministry of Agriculture’s Notice of Intent to Contract it is stated, “The specific areas of interest cannot be identified without potentially compromising the value of the pilot in assessing the effectiveness of satellite image capture and change detection for compliance related purposes. Due to the limited nature of the area being imaged, it is possible that the land owners may behave differently if they are aware they are being monitored and this may invalidate the intent of this pilot project in evaluating change- detection technologies and protocols.”

It is clear that the Ministry of Agriculture and ALC do not have authorization from ALR land owners, residents, workers, clients and guests to collect, use and disclose their personal information and that there is inadequate security of our personal information.

A Formal Objection

We formally object to the Ministry’s decision to take the unprecedented and deeply concerning actions to begin monitoring anthropogenic changes within areas of the ALR with radar satellite-based change detection services between November 2019 and February 2020. The government will be using machine learning algorithms to automatically identify changes of interest to the ALC, effectively spying on all citizens on ALR land in order to monitor for non-compliance of ALC regulations.

The Problems with Mass Surveillance

Mass surveillance is becoming more common as technology advances. At the same time, these technologies are violating citizens’ rights to privacy and placing individuals at risk. Around the world, we have seen that this type of data can be used for persecution, profiling and discrimination. Furthermore, the undisclosed surveillance of citizens leads to undeniable erosion of trust and communication between those citizens and the government in question. As Amnesty International has made clear:

- A. Surveillance is the monitoring of a person’s communications, actions or movements. Indiscriminate mass surveillance is the monitoring of large numbers of people – sometimes entire countries – without sufficient evidence of wrongdoing.*
- B. Surveillance is legal only when it is necessary, targeted, and based on sufficient evidence of wrongdoing, and authorised by a strictly independent authority, such as a judge. Governments*

can legalise mass surveillance in their own country but doing so would completely contradict the international laws that most nations have signed up to.

As the Canadian Civil Liberties Association states, “Mass surveillance violates international privacy rights and is fundamentally incompatible with the rights to free speech and free association that lie at the heart of strong democracies”. The Ministry of Agriculture admits in its own ‘Intent to Contract’ that the surveillance they will begin in November 2019 is meant to be an undisclosed operation which targets citizens in locations they will not name. It is stated:

The specific areas of interest cannot be identified without potentially compromising the value of the pilot in assessing the effectiveness of satellite image capture and change detection for compliance related purposes. Due to the limited nature of the area being imaged, it is possible that the land owners may behave differently if they are aware they are being monitored and this may invalidate the intent of this pilot project in evaluating change-detection technologies and protocols.

Given the ‘Intent to Contract’ letter to solicit a surveillance contract contains no indication of intent to redact or to not target individuals in the array, it can be argued that individual rights will be violated. Because of no intent to protect the individual, harm is already implied. And this includes harm to the landowners, residents, tenants, workers or any citizens who happen to be on the ALR land being surveilled.

This ‘Intent to Contract’ appears to be evidence that the Ministry and ALC do not comprehend the legal, social or political significance of this decision as it relates to democracy, privacy and human rights. Furthermore, although they have a Canadian office, the company the Ministry has hired (MDA) to collect data on BC residents appears to be American owned and traded.

We request that the Government of BC immediately halt their action to pursue this surveillance. In addition to this, we request the following information:

- 1) All background documents relating to this contract.
- 2) The reason why an American company was contracted to conduct surveillance on Canadian citizens.
- 3) The parameters and exact coordinates of the radar satellite-based photo analysis.
- 4) The cost per hectare of the contracted radar satellite-based change detection services.
- 5) Confirmation of how the Ministry decided who would secure and own the data after collection, including contact information of responsible persons where this data will be ultimately held so that future FOI requests can be made.

- 6) An account of privacy protocols associated with data that is collected, including intent to redact individuals in the arrays in order to provide Charter protection.
- 7) An explanation of measures in place the Ministry had decided upon to ensure this information remains private or is destroyed.

We also object to being lied to by the ALC and Ministry of Agriculture. At several engagement sessions throughout the province, farmers and ALR land owners have been told repeatedly that ALC enforcement is complaint driven. At the November 14, 2019 engagement session in Kamloops, ALC Chair Jennifer Dyson is recorded as saying, “We’re not looking for that. We’re not knocking on doors. There is no drone or helicopters looking for these kinds of things.”

We are aware that aerial imagery has a history of use in the ALC and other Ministries for regulation of Crown Land and/or the protection of land in the event of environmental issues but using imagery to establish biophysical data is legally different from using military grade satellite-based mass surveillance to monitor for illegal activities in secret, or what is now being called compliance and enforcement.

Section 8 of the Canadian Charter of Rights and Freedoms affirms the right of citizens to be secure against unreasonable search or seizure. Canadian courts have defined “search” for section 8 purposes as any state activity that interferes with a reasonable expectation of privacy. This can include looking for things that are tangible or intangible, such as electronic data (R. v. Morelli, [2010] 1 S.C.R. 253).

Mass surveillance impairs democracy, erodes trust and violates citizens’ rights and freedoms.

Signed,

Raquel Kolof