LAND. LIBERTY. SUNSHINE. STAMINA.

a mini compendium of resources for beginning farmers on the topic of finding sustainable land tenure

the greenhorns

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INDEX OF CONTRIBUTORS

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Agricultural Stewardship Association
Agriculture and Agri-Food Canada
American Farmland Trust
Biodynamic Farming and Gardening Association
California FarmLink
Center for Agricultural Development and Entrepreneurship
Center for Agroecology and Sustainable Food Systems
Columbia Land Conservancy
Cornell University
Equity Trust
Farm Credit East
Glynwood Center
Intervale Center
Land for Good
Land Link Vermont
New Economics Institute
New England Small Farm Institute
NJ FarmLink
Northeast Organic Farming Association
NYS Agricultural Mediation Program
Ohio State University Extension
Open Space Institute
Pennsylvania Association for Sustainable Agriculture
Rockland Farm Alliance
Sustainable Agriculture Research and Education
The Carrot Project
The Drake Forum for Beginning Farmers
The Journal of Extension
The Land Stewardship Project
The National Sustainable Agriculture Information Service
The Pfeiffer Center
The Women, Food, and Agriculture Network
The Vermont Housing and Conservation Board
UC Small Farm Program
U.S. Farm Service Agency
UVM Center for Sustainable Agriculture
Westchester Land Trust

LAND ACCESS AND TENURE OPTIONS

LEASES

"Farm Leases and Rents"
Family Farm Series Publications: Farm Management.
From the UC Small Farm Program.
http://sfp.ucdavis.edu/Pubs/Family_Farm_Series/Farmmanage/leases.html

"Farmland Tenure and Leasing"
From the UVM Center for Sustainable Agriculture, by Annette Higby.
http://www.landforgood.org/assets/pdfs/legalguide3.pdf

"Keeping Farmland Working in Vermont: A Lease Agreements Guide for Landowners and Farmers"
From Land Link Vermont, Major Farm, and University of Vermont Extension, by Debra Heleba, David Major, and Bill Snow, 2002.
http://www.uvm.edu/sustainableagriculture/Documents/leaseagreementguide.pdf

"Managing Landlord-Tenant Relationships: A Strategic Perspective"
Moss, LeeAnn E., and Bernie Erven. Ohio State University Extension.
http://ohioline.osu.edu/fr-fact/pdf/0004.pdf

"Doing Your Homework Before You Meet Each Other: Who are these People that want to lease my Land?"
Presented by Dave Llewellyn, Head Gardener, Glynwood Farm.
http://www.glynwood.org/files/previous/pdfs/ArticlesandPresentationsByStaff/Landings%20DL.pdf

"Elements of a Good Lease"
From California FarmLink
contact farmer@thegreenhorns.net for a pdf

"Farm Rental Agreement Checklist"
Extension Fact Sheet by Donald J. Breece. Ohio State University Extension.
http://www.landforgood.org/assets/pdfs/farm%20rental%20agreement%20checklist.pdf

Sample Short-Term Lease
From Land for Good.
http://www.landforgood.org/assets/pdfs/sample%20short-term%20lease.pdf

Preemptive Purchase Right
From the Agricultural Stewardship Association
contact farmer@thegreenhorns.net for a pdf

POLICY

"A New Lease on Farmland: Assuring a Future for Farming in the Northeast"
By Susan Witt and Jay Rossier. Originally published in 1990 by the E. F. Schumacher Society.
http://www.smallisbeautiful.org/publications/essay_new_lease.html

Land Ownership Statistics in Iowa
From the Practical Farmers of Iowa Blog.
http://practicalfarmers.blogspot.com/2010/05/land-ownership-statistics-in-iowa.html

"2009 Dialogue Tour on Young Farmers And Farm Transfers"
From Agriculture and Agri-Food Canada.
http://www4.agr.gc.ca/resources/prod/doc/pdf/yf-ra_1270734437605_eng.pdf

SERVICES

SURVEYS

Leasing Land and Buildings for Farming

The cost of buying land and paying a mortgage can add to the cost of starting a farming operation. Leasing may be an option for enterprises that require less infrastructure or where the investment in infrastructure--such as irrigation pipes, a greenhouse, or fencing--is portable. If infrastructure involves improvements that are not easily removed, like digging a pond or constructing buildings, then it may not be wise to invest on land you do not own, unless the owner pays for these improvements. If the property that you want to lease has buildings suitable to your enterprise, then a rental agreement might also include use of buildings.

Finding good farmland to lease may be as challenging as finding good farmland to purchase. You may find that people will respond to ads placed in small community papers, farm papers or in county Extension or Soil and Water District newsletters. Contacting owners of a desirable property by personal letter and/or phone call can be effective too. Also, check with area realtors and farmers. Once you find some possible properties to lease, consider the soil type, drainage, if there is a water supply, and what it will take to bring the land into production. It is important to find a site that matches the production requirements of the enterprise you want to develop.

Written Leases

A written lease or agreement is a good idea whether you are paying rent, working on shares or permitted to use the land free of charge. A lease will specify the terms under which the renter and the owner will operate. The main goal of a lease is to develop a fair agreement understood by both parties. Landowner and tenant needs and goals should be identified.

A well-written lease should include:

1) Description of the land and buildings to be rented, and equipment if applicable. An accurate assessment of the conditions at time of rental is a good idea, including photos to document such.
2) Rights of each party: owner and tenant access and use. Spell out any restrictions.
3) Improvements that will be made and who pays for these. If buildings are involved, specify who pays for improvements like roofing, painting, etc. that are normal infrastructure, versus improvements made specific to the farm enterprise.
4) Agricultural practices to follow – outline organic or agronomically sound practices to be used, specify that fields be planted to a cover crop after use, list prohibited practices
5) Condition of land at end of lease - common practice calls for land to be left in the same condition as when first rented. However, land that was not been farmed for some years prior to the lease may actually be left in better condition. In this case consideration should be given to the cost of those improvements.
6) Payment terms under normal growing conditions and in the event of a crop failure. Payments should be based on the value of the property for farming purposes only (not for development).
7) Lease payment: leases can be paid in cash, in crop or livestock shares, or in some cases, landowners are willing to forgo fees if the tenant makes improvements.
8) Bringing land back into production - if land has not been actively farmed in many years, the cost of bringing land back into farming is considerable. Consideration needs to be given as to who should pay for these costs. The owner benefits in the long run from improvements that are made.

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Written Leases (cont'd)

9) Length of the agreement and terms of renewal. A one-year renewable lease might be a good starting point for annual crops, or if planting perennial crops, a 3-5 year lease is preferable.
10) Early termination if initiated either by the owner or tenant and the consequences.
11) Insurance paid by owner (for land, buildings, equipment) and paid by tenant (for crops/livestock and production related improvements made by tenant).
12) Taxes are the responsibility of the owner.
13) Provisions for arbitration in the case of disagreements.

Determining Cash Rent

There are several approaches that can be taken when establishing a fair rental rate. These include: 1) the demand for land and going rate in a particular area; 2) the cost and return associated with a crop allowing for an acceptable profit and rental payment; 3) what the landowner needs to cover fixed costs or taxes. Generally a combination of these approaches may be needed to arrive at a fair rate.

Determining Share Rent

A shared rental agreement assumes that the landowner and tenant account for what each contributes to the production of a crop or livestock including fixed and variable costs; then calculate the percentage contributed by each party. This percentage can be used in setting return (crop or harvest returns) received by owner and tenant. Flexibility is needed in case of low harvest or prices. Owners may have to relinquish some shares if the tenant is dependant on sales for their livelihood.

Renting Farm Buildings

A key factor influencing building rental is whether the owner needs to obtain a minimum rent to cover fixed costs or not. Variable costs such as utilities can be assigned proportionate to use by the tenant. A key consideration for tenants is whether additional insurance is needed to cover losses of stored crops, livestock or equipment.

Sample Lease Agreement
A simple lease follows as a starting point. Consult an attorney if a more detailed lease is desired.

This lease is entered in this ____day of______________between___________________, landlord, and ______________________________, tenant. The landlord leases to the tenant to use for agricultural purposes_________acres of pasture and _______acres of cropland, and the following building: (list or attach a list) located in the Town of ____________ and County of____________ and commonly known as __________Farm.

The tenant will pay the landlord $________per year (or other specified time period) with payment to be made as follows:_______________________________. The tenant will also pay all the costs of planting, growing and harvesting crops grown on the land. The tenant will be required to maintain and repair fences, tile drains, and diversion ditches, and make ordinary repairs to maintain buildings and equipment used, and pay for utilities such as electricity and water (if relevant) during the period of the lease.

The landlord will pay the taxes, fire insurance on buildings, major repairs or improvements, such as new fence, ponds, drain tiles, diversion ditches, etc.

The tenant will follow recommended conservation and agronomic practices in working the land. No green or growing timber may be harvested from the property by the tenant. The landlord has the right to inspect or enter the property at any time.

This lease shall be for ___years beginning (date)_____________________with automatic renewal for (how long):________(years) unless either party gives written notice to the contrary at least 3 months (90 days) before the expiration of the current rental period. The rental rate may be adjusted annually to account for increases in taxes, insurance or other costs of ownership.

Any meadow land plowed for annual crops will be re-seeded to a perennial forage crop at the end of the lease period (unless the lease has been automatically renewed).

Any differences between the landlord and tenants as to their rights and obligations under this lease that are not settled by mutual agreement shall be submitted to an arbitrator or other such person who has authority to make a final decision.

It is agreed that the stipulations of this lease are to apply to and bind the heirs, executors, administrators, and assigns of the respective parties and is made and executed in duplicate.

In witness whereof the parties have signed this lease on this date of________________.

Landlord________________________________
Tenant_________________________________
Witness________________________________
Witness________________________________

Materials adapted from: Pennsylvania Farm Link worksheet (out of print) and from Richard Eschler, former Cornell Farm Business Management Educator.

More Sample Lease Agreements can be found at:
http://www.uslegalforms.com/us/US-801LT.htm - Simple Farm Lease - you must pay a fee to get a copy.

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Helpful Contacts for Finding a Farm

NY FarmLink - www.newyorkfarmlink.org 1-800-547-3276
This is a program of NY FarmNet. FarmLink links retiring or exiting farmers with individuals interested in getting started in farming. They also offer counseling to guide the process, whether the farm is going to be sold from one party to another, leased, operated as a partnership, or organized as a management opportunity for the new farmer to gain experience and equity. Their website lists currently available farms.

Land for Good - www.landforgood.org
A service for farmers, landowners, and farm-seekers in New England, this group provides trainings, tools and counseling to keep land in agricultural production.

Cornell Cooperative Extension Agricultural Educators in county extension offices may also be able to direct you to farms for sale or farm realtors. To find the Beginning Farmer contact in your county Cornell Cooperative Extension office visit:
www.smallfarms.cornell.edu/pages/contact/localcontacts.cfm

Farm Newspapers with Listing Farm Properties for Sale
Grassroots – The Voice of New York Farm Bureau – www.nyfb.org; 800-342-4143
Country Folks – Lee Publications - www.countryfolks.com; 800-218-5586

Farm Real Estate Brokers*

While conventional real estate brokers list farms for sale, most active farms are considered commercial property and are listed by real estate agents specializing in farm transactions. The list below does not imply endorsement of any of the following businesses:

- MLS Residential Search - http://realtor.com/
  The largest multiple listing service for residential real estate. Often contains small and medium farms.
- Farm Credit - http://firstpioneer.com/ and www.farmcreditwny.com/
  Agricultural lender with an appraisal services; they would know of farms for sale
- Farm Service Agency Real Estate for Sale - www.resales.usda.gov/
  Listing of homes and farms for sale by the Farm Service Agency, many available with low interest financing
- Landandfarm.com - http://landandfarm.com/lf/ - Rural property listing service
- Landdirectory.com - www.landdirectory.com/state/newyork.htm - Rural property listing service
- United County Real Estate - www.unitedcountry.com/ - Rural real estate brokerage
- Come Farm with Us – farm real estate listings in Jefferson County, NY – www.comefarmwithus.com

*This listing of realtors is not intended to be complete, and listing does not imply endorsement by Cornell Cooperative Extension. Check with folks located in the area near where you hope to farm to find realtors who specialize in farm property.

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Introduction: Land Tenure Options

UNIT OVERVIEW

Affordable and secure access to land is crucial for assuring both the economic viability of small-scale agriculture and the adoption and use of sound land stewardship practices. In order to help beginning farmers secure long-term land tenure in the face of development and increasing land prices, new and innovative options for land tenure must be explored. This unit introduces students to a range of strategies that may be used to secure long-term and affordable access to land for California farmers.

MODES OF INSTRUCTION

> LECTURE (2 hours)

LEARNING OBJECTIVES

CONCEPTS

- The importance of land tenure to the success of small-scale agriculture and sound land stewardship
- Advantages and disadvantages of various conventional and alternative land tenure options
- Mechanisms of various conventional and alternative land tenure options

Lecture Outline: Land Tenure Options

A. Land Tenure, Small Farm Viability, and Land Stewardship

1. Securing long-term land tenure is the foundation of economically viable small farming operations, but an expensive land purchase may not be practical or even advisable
2. Affordable access to land is crucial for ensuring both small farm viability and sound land stewardship. Without long-term tenure agreements, implementing sustainable farming practices on the farm or living wages for agricultural workers may be difficult to justify economically.
3. Land speculation/development has increased the selling price of agricultural lands to a level beyond the productive capacity of agriculture
4. High returns on the sale of agricultural land to development, high operating expenses, and low returns for agriculture products have resulted in widespread sale and conversion of prime agricultural lands to residential and commercial development. As a result there has been an associated decline in small-scale family farming businesses.
5. Many farmers can no longer afford to own the land they farm due to the price of land being based on a speculative real estate market and not the agricultural land value
6. In order to help beginning farmers secure long-term land tenure in the face of development and increasing land prices, new and innovative options must be explored

B. Land Tenure Options

1. Cash rental or lease
    a. A long-term lease of 5 to 30 years may be the optimal tenure agreement for many farmers with limited financial assets. However, it is crucial to protect oneself to the degree possible from changes in ownership impacting the lease. In signing a cash lease, the beginning farmer is calculating that for the term of the lease he or she will be able to cover a fixed payment to obtain land tenure. The funds are due to the landlord regardless of whether the farmer has a good year, a bad year, or gets the operation going later than planned.
    b. Essentials of lease agreements – While lease agreements can vary in terms of complexity, at a minimum they should address responsibilities for maintenance, repairs, and dispute resolution
    c. Establishing a fair lease rate – Cash-rent leases can be negotiated based on agreed understanding of local agricultural market value. The California chapter of the American Society of Farm Managers and Appraisers provides an annual review of lease values by crop and land type for most California counties (see: www.calasfmra.com).
    d. Factors influencing lease rates – Rates will depend not only on the quality of soil and availability of water, but also on outbuildings, irrigation systems, and other infrastructure
    e. Today farmers establishing their own operations are often 30–40 years old or more. A 30-year lease is appropriate to meet their goals of farming until retirement age.
    f. Long-term leases of up to 99 years are legal in some states. We are not familiar with leases longer than 51 years in California.
2. Crop-share defined: A crop-share agreement or share-rent is a means for compensating a landowner for use of their land while sharing the risk. Payment may include a share or percentage of crop, for example 20% of the walnuts harvested, or a percentage of the gross or net income.

a. A crop share requires a level of trust between lessee and lessor that may include sharing financial or tax records. By agreeing to pay the landlord based on how much crop comes in, the beginning farmer will owe more if they have an abundant harvest and less if there is a poor yield.

b. Determining the percentage fair to both parties can be done based on knowledge of the "going rate" for leases or through worksheets spelling out the specific contributions of each party. Paying rent by committing a share of the crop may help entice a landowner to lease when the going rate for a cash rent is not significant. A crop-share lease looks almost identical to a cash lease except in the payment section, where the share is described rather than a fixed lease amount.

3. Cash-rent leases from private, governmental, and nonprofit entities
   a. Many governmental and nonprofit entities have significant farmable acreage, which they can lease to private individuals
   b. These arrangements are often publicized only briefly or through their own established networks in the agricultural community
   c. A proactive beginning farmer should call or write the offices of such organizations to enquire with appropriate program staff
   d. While a significant waiting period may be required, once a lease is obtained an agreement running 2–5 years with the opportunity to renew may be possible
   e. The availability of infrastructure including wells, barns, and fencing varies from place to place
4. Rent or lease with option to buy
   a. A clause in the lease giving the lessee the first option to buy if for any reason the property will be going on the market is important for protecting a young farmer's investments in the land. First option to purchase can be included as part of a lease agreement, whether payment terms are cash or crop-share.
   b. However, having an option means little if the beginning farmer has not positioned himself or herself to be able to exercise the option. In other words, having the right to buy the farm only makes a difference if one can get financing for purchase in time to exercise the option.
5. Fee-title purchase with conventional financing
   a. The standard means of purchasing a farm – This involves borrowing the money from a willing lender, making an offer on the land, and eventually purchasing the farm by making payments to the bank/lender
   b. Why fee-title purchase with conventional financing is increasingly difficult for beginning farmers
      i. As land prices increase it is becoming more and more difficult to support land payments from the proceeds of small-scale agriculture
      ii. Lenders require a demonstrated track record of successful farm business management
      iii. A track record of successful farm business management in conjunction with a credible cash-flow projection is used to determine whether or not to provide financing
      iv. The lender will analyze the applicant's ability to make an adequate income from the specific piece of land they seek to purchase
   c. Variation on fee-title purchase suitable for purchases of relatively small acreage (i.e., 2–15 acres)
      i. Seek financing assistance from a mortgage broker or bank as a single-family residence
      ii. By demonstrating significant income from off-farm sources based on a track record of maintaining an off-farm job, the purchaser may qualify for a home loan
      iii. This may allow the purchaser to obtain a lower interest rate. This also circumvents the hurdle of demonstrating significant farm management experience.

    iv. It is important to negotiate fees with either a realtor or lawyer in order to put together a purchase agreement that will pass legal muster

6. Fee title purchase through an installment sale/ "owner financed"
    a. An installment sale or land contract sale is an agreement through which the seller (original owner) of the land agrees to finance the sale to a new buyer. The new buyer moves onto the land and begins making payments directly to the seller/owner based on an agreed-upon interest rate and other terms.
    b. Advantages to new farmer – This approach can benefit a beginning farmer because they would not have to approach a commercial or governmental lender for a traditional loan, which is often difficult or impossible to secure for new and limited-resource farmers
    c. Advantages to seller – The seller, in turn, benefits by limiting their capital gains and income tax liability. In addition, if the seller finances the sale ("carries the note") through an installment sale and the beginning farmer defaults, the land goes back to the seller who can then select a new buyer.
7. Shared ownership models: Legal partnerships, Corporations, and Limited Liability Companies (LLC)
    a. In forming a partnership, corporation, or limited liability company (LLC) chief considerations include –
        i. Which legal entity is best for shared ownership? Based on how various investors choose to share ownership of property, decision-making, and risk/liability, one can determine the best legal entity to hold title to the land.
        · Example: One group may choose to have "silent partners" who invest cash but do not have a say in day-to-day operations of the farm. Some partners may have more off-farm assets than others and therefore might be taking on an unequal level of risk if the farm were sued.
        · Comparative advantages can be explored through various Nolo Press publications or speaking with a lawyer
        ii. The LLC – The LLC has become popular over the last several years as a means of meeting many goals of shared ownership while limiting bureaucratic requirements, liability, and costs. One option is for an LLC to own land and lease it back to a farm entity. This may offer several advantages –
        · Multiple investors can share ownership in the form of shares or stock in the land asset
        · With an LLC one owner can choose to sell his or her shares at any time and other members can either buy the departing shareholder out or find another investor to purchase those shares. This allows the land to continue to benefit LLC shareholders regardless of changes in the personal goals or financial situation of one individual.
        · By leasing land to the farming entity, the shareholders are assured the opportunity to gain equity, and to obtain income tax advantages from deducting mortgage interest
        · In addition, this type of entity can be used to separate decision making between active farm managers—who need to be involved in day-to-day production and marketing decisions—and absentee land-owning shareholders
        · Much of what is described here as benefits of an LLC can also be attributed to other forms of incorporation or partnership agreements
        · For additional descriptions and comparative advantages over other forms of incorporation or partnership agreements, see Nolo Press's "Types of Ownership Structure." Available online at www.nolo.com.
8. Limited liability corporation ownership with lease to nonprofit entity
    a. Many individuals in a new generation of aspiring farmers who did not grow up on farms or expect to inherit land have become interested in hybrid private/nonprofit farm entities. If educational tours and similar activities will be a core part of the business plan this strategy may have merit, as a nonprofit entity will typically find it easier to obtain grants for program expenses that include rent, but not capital expenditures for land.

   b. Farming and nonprofit administration require very different skill sets. For this reason it is crucial to keep priorities straight, as starting up either a nonprofit organization or a productive farm demand significant time and resources.

9. Fee title purchase and sale of conservation easement(s)
   a. Conservation easement defined (Catoctin Conservation District, 2004): "A legal agreement between a landowner and a land trust or government agency that permanently protects land while the landowner continues to own it. Donating the easement can result in reduced income tax and estate tax. It imposes limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property." The easement is recorded with the deed, and future owners are bound by its terms in perpetuity. The land remains privately owned and on the tax rolls. With an Agricultural Conservation Easement (ACE), a land trust or government agency maintains the development rights, while the farmer owns the farming and water rights and all other private property rights including exclusive use.
   b. How beginning farmers may benefit from the sale of conservation easements
      i. Reduced out-of-pocket price paid to owner due to compensation by land trust for the sale of the ACE
      ii. Reduced tax burden due to reevaluation of property value based not on speculative value of land but on productive agricultural value
      iii. Reduced inheritance tax due to reduced appraised value of property
      iv. Conservation of agricultural and/or wild lands in perpetuity
   c. Who supports the purchase of conservation easements? California Department of Conservation, USDA Farmland Protection Program, and various local government and private sector groups are supporting the purchase of conservation easements on agricultural lands (see Resources).

10. Community land trust and land pooling
   a. A community land trust (CLT) is a nonprofit organization that owns real estate to benefit the local community by enabling long-term low cost ownership. The organizations are democratically controlled and serve to provide long-term housing and farmland tenure.
   b. A CLT encourages good land stewardship and makes land more affordable because the common land is held by a trust as land designated for the broader community's use while individual families or farmers hold long-term leases on a plot of land
   c. Because CLTs are able to provide long-term leases, they have the ability to preserve affordability over a long period of time. Land is removed from the speculative real estate market and held in trust by a democratically structured nonprofit.
   d. The value created from the labor applied to the land (agriculture crops and buildings) is private equity and becomes a liquid asset to the persons who are investing time and resources in the infrastructure value. This asset is exchangeable in the market place with limited equity potential that is defined by each CLT.
   e. Generally a CLT is organized as a tax-exempt 501(c) 3 non-profit organization. In some cases a 501(c) 2 is established as a title holding company to administer property leaseholds that would jeopardize the tax-exempt status of the 501(c) 3.

11. Nonprofit owning land; farmer holding 99-year renewable ground lease and owning improvements
   a. The nonprofit owning the land may be a conservation/agricultural land trus (e.g., Genesee Land Trust in New York), a community land trust (e.g., Cold Pond Community Land Trust in New Hampshire), or other nonprofit (e.g., Equity Trust)

b. Farmer has truly long-term tenure—even perpetual tenure—without having to purchase land; pays a ground rent based on agricultural value, not on value for other uses

c. Farmer can purchase existing buildings and other improvements on the land at the commencement of the lease, often with the purchase price is based on the agricultural value of the improvements, not on their market value. The farmer can invest in and own other improvements over time. If the farmer wants to give up the leasehold, he or she can sell the improvements to another farmer for a price that is limited by the terms of the lease to an affordable level.

d. In some cases, CSA farms have mobilized donations from CSA members to allow a nonprofit to purchase land that is then leased back to the CSA farmer. In other cases, CSA members have purchased a conservation easement with purchase option, while the farmer purchased the remaining farm value.

Resources

Please note: All land tenure agreements should be documented in writing and well understood by all of the parties involved in the transaction. This typically requires outside professional assistance.

PRINT RESOURCES

Conservation Easements as Part of Intergenerational Farm Transfers: A Professional Development Workshop. California FarmLink, 2000.

More than 100 pages of technical resources presented as part of a California FarmLink-hosted training workshop for attorneys, estate planners, land conservation specialists, and farm transition experts. Available through California FarmLink: www.californiafarmlink.org.

Creating a Life Together: Practical Tools to Grow Ecovillages and Intentional Communities, by Diana Christian. Consortium, 2002.

Several chapters dedicated to collective and cooperative land tenure models. Provides several thorough case studies on shared ownership models and guidelines on how to select the most appropriate legal entity for holding land titles.

Farmland Transfer and Protection in New England: A Guide for Entering and Exiting Farmers, by Kathryn Z. Ruhf. New England Small Farm Institute, Belchertown, Massachusetts, 1999.

Information on farm transfer and secure tenure for the next generation of New England farmers. Useful for farm families and service providers involved in farmland access, transfer, and protection. Email nesfi@igc.org.

Holding Ground: A Guide to Northeast Farmland Tenure and Stewardship. Intervale Foundation (VT) and the New England Small Farm Institute, 2004.

This comprehensive guide offers models and mechanisms, other than outright ownership, for securing tenure on farmland in any U.S. region. Holding Ground opens doors to new tenure models and provides practical information to help you craft innovative, successful tenure agreements that address the needs of both parties—and of the land itself.

Property and Values: Alternatives to Public and Private Ownership, edited by Charles Geisler and Gail Daneker. Island Press, 2000.

Brings together scholars, attorneys, government officials, community development practitioners, and environmental advocates to consider property rights issues and how to create new and more socially equitable forms of land ownership.

WEB RESOURCES

American Farmland Trust: www.farmland.org

The web site for American Farmland Trust, a national organization working on farmland conservation models.

California chapter of the American Society of Farm Managers and Rural Appraisers: www.calasfmra.com

While this site is designed for professional appraisers, realtors, and others, you'll find much valuable information including average costs of land for sale or lease. The information is categorized by crop and California county.

California Department of Conservation Division of Land Resource Protection—California Farmland Conservation Program: www.consrv.ca.gov/DLRP

California Farmland Conservancy Program (CFCP) encourages long-term, private stewardship of agricultural lands through the voluntary use of agricultural conservation easements. The CFCP provides grant funding for projects that use and support agricultural conservation easements for protection of agricultural lands.

California FarmLink: www.californiafarmlink.org

This site provides information about California FarmLink services and programs as well as case studies on farm transfer models and links to other helpful sites. Sample language from which to develop legal land tenure agreements are also available through California FarmLink and other organizations.

Conservation Fund:
www.conservationfund.org
Forges partnerships to protect America's legacy of land and water resources. Through land acquisition, community initiatives, and leadership training, the Conservation Fund and its partners demonstrate sustainable conservation solutions emphasizing the integration of economic and environmental goals.

Equity Trust Incorporated:
www.equitytrust.org
The Equity Trust Incorporated offers a number of programs that emphasize creative approaches to land tenure, including a CSA/Agriculture program that intends to "introduce a new constituency to alternative land tenure models, enroll them into partnerships with land trusts and raise the standards of agricultural land preservation to include better protections to keep farmland in active use and maintain its affordability to future farmers." Includes listing of resources.

Growing New Farmers:
www.growingnewfarmers.org
Growing New Farmers is a community of new farmers and service providers organized through the New England Small Farm Institute. This web site will assist the spectrum of beginning farmers, from those assessing whether they want to get started to those finalizing business plans. Though created for farmers in the Northeast it has a wealth of information for California farmers, including worksheets, articles, and a user-friendly question and answer section.

Institute for Community Economics:
www.iceclt.org/clt/
ICE, founded in 1967, is a national organization that promotes the just allocation of resources in communities in ways that address the needs of low-income families. Through technical assistance, financial support, and advocacy, ICE builds the capacity of a national network of community land trusts (CLTs) and other locally controlled organizations for permanently affordable housing and community economic development. Contains extensive resources on the Community Land Trust model of land and housing ownership.

Land Trust Alliance:
www.lta.org
The Land Trust Alliance web site will help you access local land trusts that may be of assistance in acquiring lands for lease or sale.

Marin Agricultural Land Trust:
www.malt.org
Founded in 1980 by a coalition of ranchers and environmentalists to preserve farmland in Marin County, California, MALT acquires agricultural conservation easements on farmland in voluntary transactions with landowners. The MALT web site contains many online articles on agricultural conservation easements, sample conservation easements, and multiple case studies of agriculture land preservation through the sale of conservation easements.

National Farm Transition Network:
www.extension.iastate.edu/nftn/homepage.html
This web site has links to many state and regional program that help connect beginning and aspiring farmers with opportunities to gain land tenure, connect with mentors.

New England Land Link Program:
www.smallfarm.org/nell/nell.html#pub
NELL is a program to help farmers and landholders locate and transfer farms in New England.

New England Small Farm Institute (NESFI):
www.smallfarm.org
Established to support beginning farmers and sustainable small-scale agriculture in New England, the NESFI provides extensive resources for the beginning farmer, including technical assistance and training programs; access to financial resources; access to land through the New England Land Link Program; and support in accessing markets.

Nolo Press:
www.nolo.com
Dedicated to helping people handle their own everyday legal matters or make more informed legal decisions, Nolo Press publishes reliable, plain-English books, software, forms, and up-to-date legal information covering almost any legal topic. Includes an extensive list of publications and online articles on the types of legal ownership structures that are available and do-it-yourself manuals on forming sole proprietorships; partnerships; limited partnerships; limited liability companies (LLC); nonprofit corporations; nonprofit cooperatives. Includes links to other helpful websites.

Sustainable Communities Network (SCN):
www.sustainable.org

The SCN is for those who want to help make their communities more livable. A broad range of issues is addressed and resources are provided to help make this happen.

United States Department of Agriculture Natural Resources Conservation Service (NRCS) Farmland Protection Program:
www.info.usda.gov/nrcs/fpcp/fpp.htm

The Farmland Protection Program provides funds to help purchase development rights to keep productive farmland in agricultural uses. Working through existing programs, USDA joins with State, tribal, or local governments to acquire conservation easements or other interests from landowners. USDA provides up to 50 percent of the fair market easement value. The USDA NRCS Farmland Protection Program web site provides resources on this federal easement program.

Getting on Solid Ground

An Overview of 15 Ways to Secure Land

Excerpted from the ***Farmer's Guide to Securing Land***

Produced with Support of USDA, Western SARE

To order a copy of the complete handbook, contact California FarmLink at
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"Cultivators of the earth are the most valuable citizens. They are the most vigorous, the most independent, the most virtuous, and they are tied to their country and wedded to its liberty and interests by the most lasting bands."
–Thomas Jefferson

Secure access to affordable farmland is one of the most significant challenges facing today's new farmers (and there are many). The success and sustainability of an agricultural endeavor often depends on land security, as does a farmer or rancher's willingness to be a good land steward. Most farmers and ranchers would prefer to own the land they work; but in the face of high land prices and economic uncertainty, ownership may not always be practical or even wise. The purpose of this overview of land tenure models is to widen the scope of options farmers and ranchers can consider in their quests to creatively and affordably secure agricultural land.

More in-depth information about each of these models can be found in *The Farmer's Guide to Securing Land,* a 183-page handbook for farmers and ranchers published by California FarmLink in 2008. The handbook includes general information about agricultural land tenure in California; descriptions of ways to lease, own, and otherwise creatively secure farmland; case studies illustrating those approaches; and sample language from actual documents concretizing these land tenure transactions. To order a copy of the Guide, call California FarmLink's main office at (707) 829-1691 or email info@californiafarmlink.org.

Land Tenure, Defined

The term "tenure" comes from the Latin word *tenēre*, meaning "to hold." Land tenure is the act of holding, or the right to hold, land—whether in "fee simple" ownership or via some other agreement with the owner of that land. Old English Common Law introduced the concept of land ownership to the United States, in which land can be bought and sold as private property. The following fourteen legal models for land tenure, from "fee simple" ownership to easement-encumbered ownership, and from long-term to short-term leases, are all operable within this now American philosophy and legal structure of land ownership.

How *Not* to Use This Material—A Disclaimer

Far too often, we hear of farmers or ranchers with only verbal agreements securing their access to a piece of land. At California FarmLink we discourage this because human memory is a funny thing—differing recollections of a so-called "agreement" may easily lead to conflicts, which can lead to failed businesses, broken friendships, lawsuits, and much grief. So remember—when negotiating tenure on a piece of farmland, even with a good friend or relative, a written and signed document is *essential.*

A qualified professional (often a realtor or attorney) should review your documents before you sign them. With some models, such as the cash lease, you will have no trouble finding a qualified professional to review your work. At California FarmLink, we provide technical assistance on land tenure. We will be happy to assist you with your particular opportunity and/or direct you to qualified professionals as needed. We have done our best to provide you with accurate information, however we must state for our legal protection as well as yours that we cannot be responsible for documents, agreements and transactions you enter into based on the information provided in this overview. All final documents should be signed only after being reviewed by a qualified professional.

1. Cash Lease Model

A long-term lease of 5 to 30 years may be the optimal tenure agreement for many farmers with limited financial assets. It is crucial to protect oneself to the degree possible from changes in ownership impacting the lease. In signing a cash lease, the beginning farmer is calculating an ability to cover a fixed payment for the term of the lease. The funds are due to the landlord regardless of a good year, a bad year or a longer time to get the operation going than planned. While lease agreements can vary in terms of complexity, at a minimum they should address responsibilities for maintenance, repairs and dispute resolution. Cash-rent leases can be negotiated based on agreed understanding of local market value. Establishing a fair rate can be challenging. The California Association of Farm Ranch Managers and Appraisers provides an annual review of lease values by crop and land type for most California counties. This information is available through California FarmLink, please visit our website at www.californiafarmlink.org. Rates will depend not only on the quality of soil and availability of water but also on outbuildings, irrigation systems and other infrastructure.

Today farmers establishing their own operations are often 30-40 years old or more. A 30 year lease is appropriate to meet their goals of farming until retirement age. Long-term leases of up to 99 years are legal in some states. We are not familiar with leases longer than 51 years in California.

2. Crop-share Lease

A crop-share agreement or share-rent is a means for compensating a landowner for use of the land while sharing the risk. Payment may include a share or percentage of crop, for example 20% of the walnuts harvested, or a percentage of the gross or net income. A crop share requires a level of trust between lessee and lessor which may include sharing financial or tax records. By agreeing to pay the landlord based on how much crop comes in, the beginning farmer will owe more if there is a great harvest and less if there is a poor year. Determining a percentage fair to both parties can be done based on knowledge of the “going rate” or through worksheets spelling out the specific contributions of each party. Paying rent by committing a share of the crop may help entice landowners to lease when they don’t consider the going rate for cash rental to be significant. For example, if cash rent is valued at $500 per acre per year, a landlord may prefer to share risk assuming as much as $2-3,000 if crop share rent were calculated at 10% of gross sales on a produce operation. A crop-share lease looks almost identical to a cash lease except in the payment section where the share is described rather than a fixed number.

3. Cash Lease from Governmental and Non-Profit Entities

Many governmental and non-profit entities have significant farmable acreage that they can lease to private individuals. The availability of infrastructure including wells, barns and fencing varies from place to place. These leases are often publicized only briefly or through their own established networks in the agricultural community. A proactive, beginning farmer should make an effort to call or write the California FarmLink office to inquire with appropriate program staff. While a significant waiting period may be required, once a lease is obtained, an agreement running 2-5 years with the opportunity to renew may be possible. California FarmLink is developing a list of government and non-profit entities that lease to beginning farmers.

4. Ground Lease

Ground leases are a well-established form of land conveyance and ownership. A ground lease normally has a term, which is at least ten years longer than a long-term mortgage. This makes the usual term from 40 to 99 years. Because of the length of the lease, it is prudent to put a lot of detail into the drafting of the lease. An accurate legal description is essential. In California, it is also prudent to obtain a title report from an established title company, and to obtain a policy of title insurance that guarantees title is as shown in the title report. The lease should be recorded. If the actual lease is deemed too cumbersome to record, a memorandum of lease that recites the parties, the term and the correct legal description can be used to notify people about the lease.

A ground lease can be a basis for getting a mortgage loan to build a house.

5. First Right of Refusal and Option to Purchase

A clause in the lease giving the lessee the first option to buy if the property goes on the market is important for protecting a young farmer's investments in the land. First option to purchase can be included as a part of any lease agreement whether payment terms are cash or crop-share. Having an option means little if the beginning farmer is not positioned to be able to exercise the option and get financing for purchase in time to exercise the option.

6. Fee-title Purchase

This is the standard means of purchasing a farm: find the money, make the offer and purchase the farm. This is increasingly difficult as land prices increase and agricultural lenders want to see a demonstrated track record of successful farm business management. Such lenders require a credible cash-flow projection to determine whether to provide financing. The lender will analyze the applicant's ability to make money from the specific piece of land to be purchased. One variation suitable for purchases of relatively small acreage (i.e. 2-15 acres) is to seek financing assistance from a mortgage broker or bank for a single family residence. By demonstrating significant income from off-farm sources based on a track record of maintaining an off-farm job, the purchaser may qualify for a home loan. This may allow the purchaser to obtain a lower interest rate. This also circumvents the hurdle of demonstrating significant farm management experience.

We recommend negotiating fees with either a realtor or lawyer in order to put together a purchase agreement that will pass legal muster.

7. Fee Title Purchase with Sweat Equity

Equity in general can be thought of as the portion of an asset's value that is owned by the proprietor or shareholders. Equity can be purchased outright or gained passively as a result of external market forces, gift or inheritance. With sweat equity, equity is earned by "sweat" or hard work. This can be structured in several ways.

Sweat equity for a farmer can be defined as ownership in an asset gifted to or negotiated with a farmer to provide that farmer with an ownership stake in the land or farm operation.

Acquiring ownership of land can be accomplished over time with a flexible seller that recognizes the contribution the buyers have made or will make through their labor. With a "sweat equity" purchase, the buyer is paying off all or a portion of the agreed upon cost of a property through labor. Parents may make a "sweat equity" agreement with a son or daughter stating that, in addition to wages for working on the farm, we will give you 5% ownership the for every year you work. Through such an arrangement, the son or daughter could become a full-owner over 20 years or could inherit at the parents' death or could buy the parents' remaining interest when it was smaller. Alternatively a sweat equity deal can be negotiated as part of a purchase involving a cash down payment.

8. Land Contract Sale

An installment sale or land contract sale is an agreement through which the seller (original owner) of the land agrees to finance the sale to a new buyer. The new buyer moves on to the land and begins making payments based on an agreed upon interest rate and terms.

This approach can benefit a beginning farmer who would not have to approach a commercial or governmental lender for a traditional loan. The seller, in turn, benefits by limiting capital gains and income tax liability. In addition, if the seller finances the sale, or "carries the note," through an installment sale and the beginning farmer defaults, the land goes back to the seller who can then select a new buyer. The danger for the buyer is that a default near the end of the contract leaves the buyer with nothing, unlike a default near the end of the term of a deed of trust.

9. Agriculture Conservation Easement Sale

The dream of owning the land remains powerful for many beginning farmers regardless of the rapidly increasing prices and advice from USDA and commercial agricultural lenders that leasing or other tenure models are often a much more sound business decision. With an Agricultural Conservation Easement (ACE), a third party group maintains the development rights while the farmer owns the farming and water rights and all other private property rights including exclusive use. For beginning farmers who seek to own land, obtaining land with a conservation easement that restricts their ability, in perpetuity, to pursue residential or commercial development on the property can help make a purchase affordable. The California Department of Conservation, USDA Farmland Protection Program and various local government and private sector groups are supporting the purchase of conservation easements on agricultural land.

10. Easement Sale as Part of Farm Succession Plan

Conservation easements in California have typically been utilized to help existing landowners protect land from development while managing tax liability or minimizing debt. An important variation on this theme is to purposefully treat the sale of a conservation easement as a tool to achieve goals of transferring the farm from one generation to another. Sale of an easement can be used to buy out a non-farming heir, purchase land or other assets to provide on-farm heirs resources to grow the farm business; or cover the retiring generation's retirement needs so that they are no longer dependent on farm income to cover essential living expenses. In these ways the funds received from sale of an easement become the missing piece in a plan to transfer farm assets in such a way that facilitates ownership for the next generation.

11. Transfer of Farming Rights

A transfer of farming rights is an innovative approach that promises to address the interrelated challenges of securing long-term land tenure for agriculture; helping farmers build equity they can realize for retirement; and achieving affordable asset ownership in locations where market land values have skyrocketed far beyond the capacity of a farm business to justify land purchase. The transfer of farming rights is a deed restriction that a farmer can purchase from a landowner in order to secure the right to farm in perpetuity. A similar model has been used de facto in the timber and mining industries. The right to farm is transferred to a private individual through an easement recorded with the county as a deed restriction. The right to farm stays with the farmer owning it, regardless of whether the ownership of the other rights in the "bundle of rights" associated with real property changes hands one or more times.

12. Farmer Secures Tenure Through Partnership with a Residential Development

Farmland prices have soared out of reach of most farmers, due at least in part to increased demand for housing. Housing developments continue to spring up, despite heavy environmental and even social costs, causing direct threat to farmland. In efforts to meet housing demand while maintaining farmland and urban growth boundaries, creative developments have begun to emerge—integrating higher-density housing with productive, agricultural landscapes. This represents a unique opportunity for a beginning farmer seeking to secure affordable land tenure.

We are aware of several cases in which a private developer or co-housing organization manages to incorporate active farmland into a new housing development. These developments, found both rurally and in cities, can generate great appeal for potential homebuyers wishing to live near working farms. When appropriate farming practices are prescribed, incorporated farmland can help create harmonious urban growth boundaries, increase public awareness of agriculture and food systems, and actually cost less than more standard development models—often reinforcing county and municipal general goals.

There are benefits to farmers of the next generation as well: When strong tenure and equity-building options are reserved for them, small- and medium-scale farmers can actually afford to reside in lively communities, near markets for their products, and have ownership in a home and/or improvements on their farmland, without necessarily having to purchase the land itself.

How is accompanying farmland allocated and managed in these innovative developments? It may be owned by the developer and leased out for farming by a property management company owned jointly by the homeowners and managed by a homeowner's association owned privately (by a resident farmer, for example) but maintained available for agriculture by easement donated to a city, other public agency or nonprofit as part of the approval process, and managed by paid staff or through a long-term lease agreement.

13. Teamwork for Tenure: Shared Ownership Models

In forming a partnership, corporation or limited liability company (LLC), chief considerations include how will various investors share: ownership, control/decision-making, and risk or liability. For example one group may choose to have "silent partners" who invest cash but do not have a say in day-to-day operations of the farm. Some partners may have more off-farm assets than others and therefore might be taking on an unequal level of risk if the farm were sued. By answering these questions, one can determine the best legal entity to do the job. The LLC has become popular over the last several years as a means of meeting many goals of shared ownership while limiting bureaucratic requirements and cost. One option is for an LLC to own land and lease it back to a farm entity. This may offer several advantages.

First, multiple investors can share ownership in the form of shares or stock in the land asset. With an LLC one owner can choose to sell his or her shares at any time and other members can either buy the departing shareholder out or find another investor to purchase those shares. This allows the land to continue to benefit LLC shareholders regardless of changes in the personal goals or financial situation of one individual. By leasing land to the farming entity, the shareholders are assured the opportunity to gain equity and obtain income tax advantages from deducting mortgage interest (a portion of which can be considered an expense against the lease income). In addition, this type of entity can be used to separate decision-making among active farm managers who need to be involved in day-to-day production and marketing decisions and absentee land-owning shareholders. Absentee shareholders might include a parent, CSA member or "angel" investor. Much of what is described here as benefits of an LLC can be found in other forms of incorporation or partnership agreements.

14. Silent Partnership to Buy Land

Many beginning farmers committed to land ownership are unable to secure down payments or viably manage mortgage payments, but individual, non-farming investors can sometimes offer the "leg up" necessary to make a land purchase. In turn, they may benefit over the long term due to a share in that farmer's business, tax benefits resulting from being part of farm-business partnership, real estate development on a portion of the land, or simply the intangible reward of knowing that they have played a role in the development of a more sustainable agriculture. If the land and business holding entities are set up so that decision-making control stays with the farmer and the investor does not have a formal voice in the ongoing management, the investor is referred to as a “silent partner.” In return for an ownership stake in the farm business, the investor is motivated to offer land buy-back terms favorable to the farmer, thus maximizing the opportunity for the farmer to succeed.

15. Community Land Trust

A community land trust (CLT) is a non-profit organization that owns real estate to benefit the local community by enabling long-term low cost ownership. The organizations are democratically controlled and serve to provide long-term housing and farmland tenure. A CLT encourages good land stewardship and makes land more affordable because the common land is held by a trust as land designated for the broader community’s use while individual families or farmers hold long-term leases on a plot of land. Because CLTs are able to provide long-term leases they have the ability to preserve affordability over a long period of time. Land, a limited natural resource is removed from the market and held in trust by a democratically structured non-profit. The value created from the labor applied to the land (agriculture crops and buildings) is private equity and becomes a liquid asset to the persons who are investing time and resource into the infrastructure value and is exchangeable in the market place with limited equity potential. Generally a CLT is organized as a tax-exempt 501(c)(3) non-profit organization. In some cases a 501(c)(2) is established as a title holding company to administer property leaseholds that would jeopardize the tax-exempt status of the 501(c)(3).

The Natural Farmer

Special Supplement on Access to Land

Ways to Gain Access to Land

by Kathy Ruhf

Equitable partition of land is the necessary basis of all self-sustaining agriculture. This partition and use of land may be in the form of ownership or in the form of right to hold the land for a specified time. The ownership may be of different degrees: The owner may have unlimited right to sell and to bequeath, or he may be bound by certain statutory restrictions. Likewise, the rental of land may be of different degrees and kinds, and in some cases it may amount to practical ownership. These varying forms of land partition have arisen with the evolution of society.

Liberty Hyde Bailey, Cyclopedia of American Agriculture, 1909, Volume IV, Farm and Community, Chapter V, Land and Labor

History

Nearly a century ago the famous horticulturalist Liberty Hyde Bailey captured the essence of agricultural land tenure. Today as in 1909, farmland ownership and tenancy are complex issues, laden with cultural, political, economic and emotional "baggage".

Before the colonists arrived, Native Americans thrived under a complex system of land use based on hunting, fishing, gathering, and farming. Their land boundaries were dictated by the change of seasons, movement of game, and a need to move on once their agricultural plots became worn out. The early colonists did not understand or respect the Native Americans' mobility and disinterest in acquiring possessions. They believed that private ownership was the best way to make sure that land would be improved and used fully.

Later the colonists developed a system of legal description for land and a recording system that made it possible to buy and sell real estate. Once land could be traded like any other commodity, it could also be used to store and accumulate wealth. And that, as they say, has made all the difference. The value of farmland as an appreciable asset, quite apart from its productive value, has more than any other factor dictated who owns it, who works it, and who inherits it.

Agricultural and tenure patterns in the U.S.—who owns and controls our productive land base—have shaped our economic, social, and political history—even our landscape. Our Constitution, laws, and public policies have long favored, though not always successfully fostered, the Jeffersonian ideal of widely dispersed ownership of farmland by family farmers. Jefferson saw this model of ownership as essential to democracy. He believed that only with security of tenure and the economic security that it provided could there be freedom to speak one's mind.

If dispersed ownership was the ideal, concentration of land ownership was its evil antithesis. The founders of this new democracy were determined to avoid the poverty and political oppression they had experienced under a landed aristocracy in Europe. Many of the English legal strictures that allowed land to stay in the hands of a few wealthy families for perpetuity were outlawed.

Beliefs about the importance of private ownership of property had an indelible impact on the nation's settlement policies. The Homestead Acts are probably the most significant example of a public policy favoring dispersed ownership. The first of these was passed in 1862 and promised 160 acres of public land free to any family willing to live on it for five years and improve it. The Homestead Acts settled 250 million acres of the United States.

While our public policies have fostered the freedom to own land, they have not guaranteed freedom from debt and foreclosure. By the late 1930s, the Jeffersonian ideal was in serious trouble. High levels of absentee ownership combined with the dust bowl created displacement, landlessness, and poverty among the nation's small farmers as well as the environmental degradation. By 1940, tenant farmers, rather than landowners, tilled nearly 40% of the nation's farmland. A study found that tenants were less likely to contribute time and energy to community institutions and as a result, the communities were not as economically or socially vibrant as those where land ownership was the norm

Policy makers also responded to the dust bowl by developing federal programs to help tenant farmers purchase farms of their own. The programs were also intended to help resettle farm families who had lost their farms through foreclosure. In the late 1930s the federal Farm Security Administration put 12,000 landless families onto their own farms. Today's Farm Services Agency, which provides agricultural credit and credit guarantees, is the modern-day offspring of the Resettlement Administration. Land ownership, seen as the best way to conserve agricultural resources and promote economic democracy, has always been the heart of its mission.

Issues

Land ownership is a dominant cultural value in the U.S. Yet, it is increasingly difficult and often impossible for people who want to farm, particularly in urbanized and rapidly developing areas of the Northeast U.S., to purchase a farm. And, while cultural biases and public policies have emphasized private ownership as the "highest" form of farmland tenure, it is not the only, and perhaps not necessarily the best option to get onto farmland. Some people, including some farmers, believe that private land ownership is a spiritually and ethically problematic framework. Organizations such as the New England Small Farm Institute, Equity Trust, the E.F. Schumacher Society, the Intervale Foundation and others, are exploring less traditional farmland tenure models — creative and often more appropriate ways for farm businesses and farmland to transfer to willing and capable new farmers.

Traditional methods of farm succession and transfer — passing the farm to the next generation — are no longer adequate to address contemporary legal and financial complexities. In many cases, exiting farm owners cannot afford to pass the farm to the next generation in a way that will ensure that it is farmed. And, as more young people leave the family farm, there are fewer farming heirs to take over the farm. When they do, it is often burdened with debt. Plus, the next generation is likely to want to farm differently than their parents, which may require additional investment for new infrastructure or new enterprise development. If there is no farming heir, the family is burdened with several concerns. They must find a way to keep the land in farming, if that is their wish, while providing for heirs and adequately financing their own retirement.

These days, more and more "next generation" farmers are coming from non-farm backgrounds. They are not going to inherit a farm. So the challenge for them is to find land that is suitable, affordable and provides adequate security.

Here in the Northeast U.S., farm succession and secure land tenure are additionally challenged by the high price of good farmland — some of the highest farmland values in the country. There is additional pressure on good farmland from development which escalates its cost. And, land prices are highest where direct markets for farm products have the most potential. The majority of new farmers do not have the resources to purchase land, even with attractive financing such as offered by the USDA Farm Service Agency.

Competition for good farmland makes it difficult to own, and it also makes it difficult to rent. Rental land is less and less available, and in some areas, rental rates have sky-rocketed. But even more problematic is the insecurity inherent in most farmland rental arrangements. With the typical annual, hand-shake rental agreement, farmers are less likely to invest in the land, grow their enterprises, or contribute to the community.

So, while landownership becomes less and less of a possibility, traditional rental tenure agreements fall short of fostering the values associated with land stewardship. Landowners and land users need tenure agreements that address their values and goals regarding the care of the farm. Non-ownership tenure should not be an obstacle to long-term stewardship of the resource — the agricultural soils, water, vegetation and other natural features of the farm property.

We — farmers, farmland owners and farming advocates — need to rethink farmland tenure. We need a new ethic that fosters farmland access, security, affordability and investment. We need models that enable secure tenure for those who do not choose to purchase farmland. As important, we need models that encourage and reward stewardship on all farmlands, regardless of tenure. We need to create the tools for these arrangements and build the skills of professionals who help people to negotiate them.

Tenure models and solutions

The word tenure comes from the *tenir* which means "to hold". There are different ways to hold land, including but not limited to ownership. Many of the rights that are associated with land ownership can be achieved or approximated without ownership. A farmer needs: access; adequate security; return on investment; and clear and equitable distribution of rights and responsibilities. These requirements can be met through short-term rentals, long-term leases or various agreements that can pave the path to eventual ownership. In the U.S., about 45% of farmers rent some or all of the land they farm. Some farmers rent at first and then purchase land as they are able to. Others do not choose to own the land they farm, or will never be able to purchase land.

Short-term leases

The majority of agricultural leases are for short — one to three — year periods. In fact, most are from year to year and can be annually renewed or terminated by giving notice. Farmers and landowners often treat leases casually, based on a verbal agreement. However it is usually advised, even with a friendly year-to-year agreement, to put it in writing.

There are advantages and disadvantages to short-term rentals. Some landowners favor short-term leases because they are unwilling to tie up the land for long periods of time. Farmers who favor short-term arrangements like the opportunity they give to experiment with new enterprises or locations without requiring a long-term commitment. This flexibility is particularly useful for start-up farmers. A short-term lease can allow you as tenant a trial period to see if your farm plans are financially feasible and personally satisfying. A short-term lease will also allow you to limit your financial risk since a long-term lease would obligate you to continue to pay rent regardless of the success of your operation. And from the point of view of both parties, a short-term lease allows them to get to know one another and decide if a longer-term arrangement would be beneficial.

Advantages for the Landowner
• Receives a cash return on land
• Retains the asset while land is being used
• Can take advantage of tax benefits
• Can enjoys the aesthetic values of managed land
• Can control stewardship practices
• Property is occupied

Disadvantages for the landowner
• Can have limited cash returns
• Cannot personally use land
• Can miss the higher returns other uses might give
• Can experience farming sights, noises and odors
• Tenant can contaminate waterways and soils
• Can lose capital on improvements

Advantages for the Tenant
• Can have lower costs than purchasing would entail
• Can take tax-deductions for leasing costs
• Has termination rights
• Can save or invest in short-term capital needs
• Can test enterprises, locations, and markets without committing to them

Disadvantages to the tenant
• Cannot recover lease costs as equity in land
• Can experience lease costs as a reduction in net income
• Cannot benefit from appreciation of land
• Can have limited control over land
• Can suffer serious inconveniences and inefficiencies if landowner is unwilling to cover maintenance
• Can lose lease
• May be unable to get credit from lenders who require security of tenure
• Can lose investments in infrastructure and land if lease is terminated.

The flexibility offered by a short-term lease can also mean financial uncertainty and difficulty in making long-term business planning or personal decisions. Lenders may balk at financing long-term assets like equipment or livestock without a written lease covering the loan period. By instinct and by necessity, many farmers operating under a short-term lease will farm that land differently than land they own. They have no financial incentive to rotate crops, invest in perennial crops or permanent structures, or install conservation structures.

There are several types of short-term lease arrangements including cash rent and crop or livestock share. In cash rent, the tenant pays a fixed rent. In crop or livestock share, the landlord shares the risk of the tenant's enterprise by agreeing to a percentage of the revenue from the rented land. There are many instances where rent is paid in kind, meaning that the tenant agrees to perform certain activities — for example, keeping adjacent trails or vistas maintained or snow-plowing in lieu of some or all cash exchange.

Long-term leases.

Farm seekers as well as private landowners and organizations such as land trusts are increasingly interested in long-term leases. A long-term lease adds significant dimensions beyond those of a short-term agreement. For the tenant, long-term leases can approach a number of the environmental, social, and economic benefits of outright ownership. By lengthening the planning horizon, a long-term lease gives the farmer time to develop and implement a more comprehensive, whole-farm planning approach and capture the benefits of investments in soil productivity and farm structures.

If the lease runs for long enough and is renewable and inheritable, it allows a farm family multi-generational use and enjoyment as well as an opportunity to leave something of value to their heirs. Long-term leases also provide an opportunity for the farm family to sink deep roots in the community.

On the down side for the tenant, the lease payments will result in a reduction of net income without contributing to any long-term accumulation of wealth in property. They must find means other than land appreciation to fund retirement. Issues posed by a long-term lease may also lead to greater complexity in the lease document and therefore greater legal costs. A typical ground lease can run anywhere from 30 to 40 pages of legalese.

The landowner may experience tax advantages from a long-term lease.

Advantages for the landowner:

- Can result in better stewardship of the farm.
- Can provide income in retirement.
- Can avoid or reduce the tax consequences of a sale of the property.
- Can result in a reduction of real estate taxes.
- Can allow the land to remain an inheritable asset in the family.

Disadvantages for the landowner:

- Ties up land for a long-term and prevents its being put to a higher economic use.
- Rental income will have tax consequences.

Advantages for the tenant:

- Lengthens a farmer's planning horizon.
- Allows for long term business and resource stewardship planning.
- Allows the farmer to capture the long term benefits of good stewardship and to enjoy the full useful life of investments made in the farm's infrastructure.
- Can serve as a legacy to the next generation if it is renewable and inheritable.
- Can allow a family an intergenerational planning horizon if it is renewable and inheritable.
- Gives a farm family a compelling incentive to fully participate in community life and community institutions.
- May increase borrowing capacity when the value of the lease is used for security along with improvements on the property that the tenant owns.

Disadvantages for the tenant:

- Reduce net income without contributing to long-term accumulation of wealth in property.
- Prevents reliance on land appreciation as a retirement fund.
- May entail complex legal documents and consequent higher legal costs.
- Can make loans more difficult or impossible to get. The land will not be available to serve as security for a loan and getting credit to fund other assets may become more complicated.

A longer-term lease has most of the provisions of a short-term lease, but adds factors such as a procedure for periodically re-evaluating the rental fee. Typically such leases assign the responsibility for making major repairs, maintaining the property, building improvements, and paying real estate taxes to the tenant. Many long-term leases divide ownership of the land and the improvements: the tenant owns and pays for constructing improvements but does not own the land on which they are built.

Public land and land trusts

Long-term leases can be negotiated with public entities such as municipal governments and private organizations such as land trusts, as well as private landowners. Public open space can be made available for farming. These arrangements can offer win-win solutions for farmers and public land managers.

Secure tenure for a farmer offers the public many benefits. The land is maintained, vandalism and dumping are virtually eliminated, and the costs associated with management can be dramatically reduced. At the same time, while a farmer on protected public land will never own the land, she can reap all the benefits of a secure tenure arrangement. In addition, the parties to such an agreement can divide rights and responsibilities to meet the unique interests of both parties, just as in a lease between private parties. For example, a municipality may be willing to reduce cash rent in exchange for the farmer keeping abutting recreational trails maintained. Tenure agreements can also stipulate stewardship requirements.

Some land trusts are increasing their participation in farm and farmland protection. In one model, a tenant may own a house and/or other improvements on land owned by a land trust and leased to a farmer or farmers. Such leases are used by land trusts as a way of making land available to members of the local community while giving the community as a whole a degree of control over the long-term use of the land. Some land trust ground leases have provisions to limit the appreciation of the improvements by capping the resale price, thereby assuring continued affordability for future farmers.

Land trusts might also hold a conservation easement on land that is still in private ownership. The easement (also known as a conservation restriction) removes the right to develop the land forever. This can make the land more affordable for new farmers. Typically, the easement has standards and requirements for how the land is managed to protect the environmental and cultural values of the conserved property.

Paths to Ownership

Several tenure arrangements can pave the path to eventual ownership, either because they legally bind the parties to an eventual transfer of title or because a farm family uses them as a tool to transfer ownership.

Usually, a *purchase and sale agreement* leads to the actual purchase within a short period of time. However, the agreement can allow the "time of performance" — that is, the actual transfer of title and dollars — to be any length. That means that the purchaser could operate on the land, with the agreement to purchase at a date in the future. The conditions of an agreement can be crafted to operate like a lease. The agreement sets out the responsibilities of the parties, based on a belief that performance will result in ownership.

Leasing is an excellent tenure tool to enable a successful, gradual transfer of farm assets to another party, whether a family heir or a transferee outside the family. Leasing allows a gradual transfer of management and ownership from the farmer to the successor. This gives both parties substantial financial advantages and also allows the owner to mentor the successor. The successor does not have to purchase a farm asset to obtain managerial control. A lease can be a vehicle to enable possession and control of land, buildings, machinery and equipment, or livestock.

A *land contract* is a type of purchase and sale agreement with an extended performance term. It's a way to transfer ownership with the current owner financing the purchase. The agreement depends on installment payments, and sometimes a small down payment. The buyer has possession of the property while paying the contract, and the title remains with the seller until payment is complete.

In a *lease with option to purchase*, the lease grants the tenant an option to purchase the property. The price and the terms of the purchase must be set forth in the lease for the option to be valid. The option may run for the length of the lease or for only a portion of the lease period. The lease payments are not part of the purchase price of the property, unless the terms specifically allow for all or a part of the lease payment to be a credit against the purchase price.

* * *

Despite the challenges, there *are* ways to obtain secure, affordable tenure on Northeast farmland. There are programs, organizations and publications to help. (See other articles in this issue.) With persistence, creativity and flexibility, farmers can find and get onto farmland to realize and develop their farming vision.

Holding Ground: A Guide to Northeast Farmland Tenure and Stewardship, a new publication from the New England Small Farm Institute, offers a comprehensive look at non-ownership tenure models, with practical information, worksheets, lease templates, resources and more. Available Spring 2004. Check www.smallfarm.org.

Sharing the Cost of Land with Your Community

by Kirby White
Equity Trust, Inc.

The nature of the problem is all too familiar to CSA farmers. The communities where there is the greatest demand for fresh organic produce and the greatest interest in CSA membership tend also to be communities where land prices are least affordable for farmers. You may get access to a piece of land on an affordable year-by-year rental basis, but this gives you no assurance that the land will be available for the long term. The accomplishments of years of hard work can eventually be sold out from under you. Even the assurances of the most benevolent of landlords can change as that person's life and needs change. So, quite understandably, farmers want to own land themselves – if they can somehow manage to buy it.

The trouble is that, in many real estate markets, land prices are not based on the value that the land has for agricultural use but on the much greater value that it has for residential or commercial development. The amount of mortgage debt required to buy such land simply can not be paid off with the income generated by farming that land. Often there is no way around this fundamental economic obstacle as long as we think about land ownership in traditional terms. But just as the CSA model redefines the economics of agricultural production and distribution, it can also redefine the economics of land ownership.

CSA farmers can share the cost of land with the communities that also have an interest in the land – through donations from CSA members and other community residents – and can do so on terms that will assure that the land continues to be farmed and continues to be affordable to farmers in the future. Equity Trust is now working with the following ownership models that both reduce the immediate cost of land for CSA farmers and provide these long-term protections.

1. farmers leasing land from a nonprofit and owning the improvements;
2. farmers owning land and improvements, with a nonprofit owning a conservation easement and an option to purchase the property when farmers want to sell;
3. a nonprofit owning land and improvements, with farmers as employees.

Farmers Leasing Land and Owning Improvements

This arrangement can be a more secure and practical arrangement for farmers than you may first assume. These ground leases can give the farmer the right to possess and use the land for as long as 99 years and may be renewable for another 99 years. Farmers can invest in buildings and other improvements (including such things as fences, wells, irrigation systems and perennial plantings), and can sell these improvements if they eventually leave the farm; they can also leave the improvements to children or other heirs who want to take over the lease and continue farming the land.

But protection of these essential interests of the farmers is balanced in such ground leases with protections for the essential interests of the community. The nonprofit organizations that enter into these leases with farmers normally want to prevent environmentally harmful land uses, assure continued sustainable agricultural use, and, as far as possible, keep the farm affordable for another entering farmer when the initial farmer departs. Such leases are generally designed to achieve these goals.

One example of how all this can work is Roxbury Farm in New York's Hudson Valley. When Jean Paul Courtens was forced to leave the land on which he had developed a large and thriving CSA farm, he faced the fact that the area's booming market for "country estates" had made agricultural land prohibitively expensive. But with help from Equity Trust and the CSA membership – which totals approximately 700 households, including sites in New York City and the New York Capital District – he has gained secure long-term access to the land he needs. A core group of CSA members organized to raise money in the form of donations from members to Equity Trust, which was then able to purchase 200 acres as a new base for Roxbury Farm. Equity Trust has negotiated the terms of a 99-year renewable ground lease with Jean Paul and his wife Jody Bolluyt, who are arranging mortgage financing so that they can buy the house and other structures from Equity Trust.

The terms of the Roxbury Farm lease generally do not prevent Jean Paul and Jody from doing anything on or with the land that they would be likely to *want* to do as people committed to sustainable agriculture. But the lease does require that they (and any future lessees) actively farm the land and derive a certain minimum agricultural income from it. In other words, the land is reserved for people who, like Jean-Paul and Jody, are serious about making a living as farmers. The lease also provides that, if they want to sell the improvements and give up the lease, they can transfer their interest only to Equity Trust or to another farmer, and for a price that is limited by a formula designed to give them a fair return on their investment while keeping the farm as affordable as possible for that new farmer.

In the course of working with Roxbury Farm, Equity Trust has been developing a model agricultural ground lease and is now working with other farmers and nonprofits to adapt it for varying situations. It should be emphasized that this approach to ownership is of interest not only to farmers who are seeking land but to some farmers who own and have already developed their own land and who are concerned (often along with their CSA members) about what will happen to their farms in the future. They have invested their lives in their farms and they do not want to see that investment mistreated or neglected. This is the situation of Sam and Elizabeth Smith of Caretaker Farm in Williamstown, Massachusetts, who are arranging the transfer of their land to a local land trust, and the sale of the improvements to a new farmer who will lease the land from the land trust on terms similar to those of the Roxbury Farm ground lease. The land that Sam and Elizabeth have cared for and improved over the past 30 years will be protected, and its continued use as an organic CSA farm will be assured.

Farmers Owning Land, Nonprofit Owning Conservation Easement and Purchase Option

The effects of this approach can be quite similar to those of the approach exemplified by Roxbury Farm. Conservation easements convey rights that a land-owner sells or agrees to donate to another party – usually to either a governmental or nonprofit entity. The rights that the land-owner gives up through the most *common* type of conservation easement are the right to develop or subdivide some or all of the land and the right to engage in certain environmentally harmful activities. These easements typically do not require that the land will continue to be farmed and do not prevent its resale for prices that farmers cannot afford. It is possible, however, to write such requirements into an easement – as was done for Live Power Community Farm in Covalo, California.

With the support of a San Francisco-based CSA membership, Steve and Gloria Decatur had spent nearly 20 years developing this biodynamic farm on 40 acres of rented land several hours north of the Bay Area. When the land came on the market in the early 1990s, Equity Trust worked with the Decaturs and CSA members to arrange for the farm's purchase. In this case CSA members donated funds to Equity Trust so that it could purchase a conservation easement, while the Decaturs bought the land and improvements for an affordable price equal to the farm value of the property. (The farm value equals the full unrestricted market value of the property minus the value of the rights given up through the easement.) In this case the rights given up through the easement included not only those given up through typical conservation easements but some others as well.

The Live Power easement requires – as the Decaturs themselves insisted – that the land continue to be farmed organically or biodynamically. The easement agreement also gives the holder of the easement an option to purchase the property for its farm value if the owners wish to sell – or if they are no longer farming the land in accordance with the terms of the easement.

Recently an adjacent 60-acre parcel came on the market, and Equity Trust is again working with the Decaturs and CSA members to acquire it on the same basis. In the process, it is hoped, both the old and new easements can be transferred to a regional land stewardship organization that will be better positioned to monitor land use and future transfers of ownership.

The model is also of interest to some farmers who already own their own farms. Near Davis, California, for instance, Jeff and Annie Main have spent 20 years developing their organic farm, which they first rented and were then able to purchase with the help of a USDA loan. They operate a local CSA and supply a "winter and fruit share" for some of the members of the Live Power CSA. They are now working with their CSA members to organize a fundraising effort so that Equity Trust or another nonprofit can purchase an easement similar to the Live Power easement. Their purpose is both to protect what they have already created and to recapitalize their efforts so that they can continue to develop, and perhaps expand, their farm.

Full Nonprofit Ownership

What this model means for the individual farmer depends very much on the particular situation. For people whose purposes include education and scientific experimentation as well as community supported agriculture, it can make sense to create a nonprofit organization that will qualify for "charitable" tax-exempt status from the IRS and thereby be able to qualify for charitable donations and grants that the individual farmers could not qualify for themselves.

Like the two ownership models described above, this approach to ownership is an effective way of protecting farmland and assuring that it will continue to be used for appropriate agricultural purposes, but it does not guarantee long-term tenure for individual farmers and does not give them the opportunity to build equity in the farm. The model may, however, provide other economic benefits to farmer-employees, depending on the policies and economic strength of the nonprofit owner. Well-established nonprofit farms – for instance Hawthorn Valley Farm in New York's Columbia County – can provide farmer-employees with benefits and a kind of stability that independent farmers can find it hard to achieve. For young farmers, employment with an established nonprofit program can make a great deal of sense.

In other circumstances, the creation of a new nonprofit may also make sense. For instance, in Oregon, Stacy Denton and Taylor Starr had spent substantial time studying and teaching organic and biodynamic farming, permaculture, and other sustainable agricultural techniques, and then sought land on which to establish their own program. They found appropriate land in a mountain valley in southwestern Oregon and were able to line up grants and donations sufficient to purchase the land and begin developing their program. Since they had not yet established a tax-exempt nonprofit organization that could receive these funds and purchase the land, Equity Trust agreed to receive the funds and purchase the property, which it is holding while a local educational nonprofit is being developed. Now incorporated as White Oak Farm and Education Center, the local organization will take title to the property when 501(c) 3 status has been recognized by the IRS.

Ongoing Innovation

These three models represent basic approaches that are being adapted and developed in somewhat different ways in different situations. There is no one right way to draft an agricultural ground lease or conservation easement or to structure a nonprofit program. The models are flexible and our experience with them is still evolving. There is much work still to be done to increase the number and strength of long-term partnerships between farmers and their communities, but the efforts to date are encouraging – and important. As Stephen Decatur of Live Power Community Farm has written: "Socially and ecologically responsible agriculture also requires socially and economically responsible land ownership. [If] equity and stewardship of the land are shared by the community and the individual farmers… we can ensure that the land will remain in farming use and permanently affordable to farmers."

Equity Trust, Inc. is a 501(c)(3) nonprofit organization founded in 1992 by the late Chuck Matthei, a lifelong advocate for economic and environmental justice. ETI's mission is to promote equity in the world by changing the way people think about and hold property. Equity Trust activities include technical assistance regarding alternative approaches to land tenure, and the operation of the Equity Trust Fund, which is capitalized by social investors and provides financing to CSA farms and other innovative initiatives. The Equity Trust CSA Land Tenure Program involves both of these activities, as well as research and the development of educational and technical materials.

Farming in Vermont's Banana Belt

by Jack Kittredge

One thinks of Vermont as mountainous and frosty, which much of it is. But there are parts which have been dealt a little better hand for farming, Lake Champlain, in particular, has graced areas in the northwest with flat, rich soils and the moderating effect on temperature which large bodies of water provide.

The Abenaki Indians knew this, and came back every spring when it was time to plant. From the tool-making remains they left, archeologists believe one of the spots they favored was Burlington's 700 acre Intervale. 'Intervale' is a geological term for a tract of low-lying land, especially along a river. Burlington's lies along the Winooski River between it and Lake Champlain.

Twenty years ago Will Raap opened up Gardener's Supply, a tool company, at the edge of the Intervale. The land was pretty run down. It had been out of farming for a few years, the town had built a power plant on one piece and opened a dump on another. But Will was a bit of a visionary. He could look past the current disarray and see the long term potential in the area. He could also excite other people about his visions.

A small group Will organized spent 2 or 3 years cleaning up the area, hauling out 760 abandoned cars and a mountain of old sofas and mattresses. Then, in 1988, they launched a composting business. This was shortly followed by a community farm, and then the organization of a 501 (c) 3 non-profit called the Intervale Foundation

In those earlier years the foundation office was housed at Gardener's Supply with a chair and a table and access to telephone service and a copier. Although Will no longer owns Gardener's Supply, having turned it over to the employees, he is still chair of the Intervale Foundation board.

Lindsey Ketchel, Director of Agricultural Programs at the foundation, describes the beginnings of the composting company. "It started as us just asking neighbors to bring down leaves in the fall. They could get free compost in the spring. It was a low-grade leaf-based compost. But what we found over the years was that we were making a better and better compost. So we thought about selling it and using the proceeds to support the work of the foundation. We upgraded the quality of our inputs to include manure and food waste as well as leaves, and we started charging people for the product."

The compost operation has grown to where it now covers 17 or 18 acres and grosses over $600,000 a year. The ingredients are food waste from restaurants and manufacturers (they get the liquid waste from Ben & Jerry's St. Albans ice cream plant) as well as leaves and yard waste. The plant charges tipping fees to companies, but not to homeowners bringing in leaves. After 9 months of turning it all becomes black gold. The primary buyers are residents and landscaping companies. Although originally sold in bulk, the company now sells it in bags and has a line of compost, potting soil and topsoil.

In 1988 Robin Van En (of Great Barrington's Indian Line Farm) visited and did a presentation to the employees at Gardeners Supply about Community Supported Agriculture. They got so excited that they immediately wanted to start a CSA on the Intervale, and did. It was the first CSA in Vermont. Currently Andy Jones is the head farmer there and manages 32 acres of land for the 420 shareholder families. The farm has developed a network with other producers so shareholders can buy organic eggs, organic chicken, all natural beef, cheese, and bread all raised on other local farms. The farm itself is a non-profit, employing Andy and others as staff. One of the foundation's most active programs is the Beginner Farmer Program that Lindsey runs.

"The average age of Vermont farmers is 56," she explains. "It's a challenge to figure out who the future farmers are going to be. A lot of farm kids see the economic realities and hardships of farming and are choosing other career paths. A couple of generations ago they probably didn't have a lot of options, but that's changed. Now they go to college, travel, and have a chance to get away and look at it all."

photo by Jack Kittredge

Lindsey Ketchel in front of the Calkins farm house where the foundation has its office.

The foundation makes it possible for beginning farmers to get experience by making foundation land available to qualified applicants. For the farmer's first three years he or she signs a one-year lease and the groups evaluates the farmer's business viability each year to make sure he or she is making some money. After three years, if the farmer has shown success, the group will lease land for up to 5-years.

"Folks coming out of our program," says Lindsey proudly, "have gained experience, developed markets, built up a little capital. So when they leave us and move to other locations they have what they need to be viable farmers. And they won't need federal subsidies!"

All Intervale farmers are organic. Not all are certified, but in their contract they agree to follow the organic practices of the National Organic Program. The farmers also have to go through a careful selection process. The first stage is to fill out an application and show the business plan. The foundation staff then reviews the application and the business plan. If they like both, they pass the applicant on to a review by the current farmers. They look at the business plan and the applicant makes a presentation at which the farmers can ask questions. Then they vote on the applicant. If the farmers give the thumbs up, the land committee finally looks at the proposal. That's composed of 2 staff, 2 farmer reps, and 2 board members. They look at the practical issues of need for available equipment, access to water, what the land's weed load is, what sort of demands the proposal puts on the foundation infrastructure. Success at this point gets you a lease.

"The first year we want to see that at least some money is going toward the farmer's labor," Ketchel stresses. "We try to evaluate the whole life package that people are living in. Of course some people have their basic needs met already and don't need as much right away. But after a few years we'd like to see $20,000 to $30,000 on an annual basis coming to them from the farming operation.

She continues: "This may seem like a lot, but because of our location – the lake effect - our farmers can get product into the market a week or two earlier than nearby farms. We call this the banana belt of Vermont – Burlington, a little bit of Addison County, and South Hero. That's one of the adjustments that farmers who leave the Intervale have to make – they may not always be the first to market with local sweet corn, tomatoes, or strawberries!"

Typically the leased farms are about 7 acres, although one is the minimum - one acre - and the Community Farm leases 32 acres. A farmer pay $108 per acre as an incubator, during his or her first three years, and $118 after that as an enterpriser. The rentals are based roughly on market value. There is an additional water charge of about $15 per acre. Farms on the river side of the road use that, and the other farms use wells.

Besides land, the foundation makes a series of essential services available to their farmers. Several brand new greenhouses are available for seedling production in the spring. Farmers rent space here by the week. They have assigned tables and Lindsey logs the square feet each uses and bills them. There are coolers available for use as well as produce handling areas and washing tables.

"We get $18 per hour for a tractor," Lindsey relates. "With multiple drivers in this kind of operation, it costs us a lot of maintain them. But if someone damages the equipment through poor operational procedures, they pay for that 100%. In general these new farmers haven't been raised on farms. They don't have the mechanical background that is so useful in the work. It's a key area in which we provide training and support. We're planning to expand that training. I can tell you that people who have left the Intervale feel that the support they got here was amazing. There is a bit of a transition, specifically around equipment. A lot of organic farmers on their own can't get a lot of capital together and are using a $3000 tractor that they are barely keeping going."

The foundation bills farmers an administrative fee of $250 per year for the incubator farmers and $550 after three years. They also require all the farmers to have a liability insurance policy up to a half million dollars (available privately through the farm bureau). Lindsey says the farmers don't want to be subsidized. They would like the program to be 100% supported by program fees, so that they know a success on the Intervale can be translated into a success elsewhere. Right now farmer fees pay for about 60% to 65% of the overall costs of the program, including staff salaries.

In the year after the Community Farm was started, two other farms were leased, Digger's Mirth and Stray Cat. Those three original farms are still in operation, along with 9 more now. Lindsey estimates that about 70 people are currently farming there, between the farmers, the apprentices, the workers and the interns.

Several farms grow mixed produce, one saves and sells seed, one is putting in berries, another an orchard, one raises pastured poultry, another specialty vegetables for restaurants. One of the most exciting things about the beginning farmer program is the informal help more experienced growers give newer ones.

"That's really where the most technical assistance happens with our new farmers," Ketchel says, "in case by case assistance. The foundation also offers help with business development, training, mechanical support, and marketing assistance. We hope to be doing a lot more with those once we get our farm center up."

In the last year three farms successfully relocated from the Intervale out into the working landscape. One found land with a land trust, one with a housing collective, and one with a pastured poultry CSA. One of the current farmers, however, is in her third year of incubator program and has no intention of leaving.

"I'm farming full time now," says Ann-Elise Johnson, "and would like to keep doing that. I'd like to have an orchard and a CSA. I'm putting in trees this year here. I'd be happy to stay here and farm. I feel like if I bought land somewhere that I could afford, it would have to be very rural. But I don't want to be isolated. I'd rather live closer to people."

The fact that people like Ann-Elise have the confidence to put in fruit trees or berries at their own expense when they hold only one-year leases is heartening to Lindsey.

"It's that trend which is exciting people about the Intervale model," she believes. "One of our goals is to provide 10% of Burlington's fresh food. So farmers who want to stay long term are part of the plan. In a lot of rural communities there doesn't seem to be a lot of hope. But here it feels good. We have a Vietnamese woman who is interested in raising ducks and Asian greens here, a new berry grower, one of our farmers is a progressive state representative.

"So far we haven't had to turn down anyone," she continues. "This year we added three new farms. I have three or four more people now who are interested. Next year could be the first year it's competitive. We don't want to grow too fast. You have to make sure that everyone involved feels comfortable with our rate of growth."

Ketchel is working to get over 40 more acres ready for farming, and the foundation plans to build a farm center with a year-round barn for dry storage. The center will be a place where the farmers can meet and work with an office system set up including access to phones, computers, office supplies, a kitchen, and office space for the farm program staff.

photo by Jack Kittredge

Ann-Elise, who raises chickens and has Riverbend Farm - a CSA at the Intervale - washes vegetables in the tubs the foundation provides for its farmers.

photo by Jack Kittredge

Lindsey poses with a bag of compost made at the Intervale composting operation. Behind her is a turner that mixes up the company's potting soil blend. The also mix the compost with sand and sell it as top soil.

Intervale Foundation plans to have 16 farms ultimately in the incubator enterprise program and another 20 in the farm viability program. This latter is an effort to get existing farmers to look at new options for expanding products and markets.

"I spent 7 or 8 years working for the state of Vermont in the Agricultural Development Division," Lindsey says. "The USDA and extension figure that a dairy farmer needs at least 260 cows to make a living. They think this is the only viable option. So they put their energy into building up those farmers. But many of us feel counter to that. We think the 60 cow farm can be viable. We have a 70-farm waiting list for transitioning to organic. People want to stay small and agile. It's the big guys who are getting hammered – the 800 cow farm needs all the help. Not the 60 cow organic farm, or the 20 cow folks making the cheese. Those are our future farmers, whether the government wants to admit that or not.

"We think in Addison County we could grow a lot of soy," she continues, "given the current farm, soil, and equipment base. Some farmers are going to have to diversify from dairy to stay in business. We're going to work hard to provide markets for them — we're now working with an organic soy company. But we have to work with the farmers in that very personal process of making a cropping decision based on lots of hard information.

"One thing we are working with on our farm viability program is seconds. For instance Maggie of Maggie's Tomtoes grows excellent tomatoes and grades them high, which gives her a great reputation and a good market. But it also means she has a lot of seconds. We're working to come up with value added products for the number twos. Those are the options we get excited about. Another example is one of our farms that's into seed production. In extracting the seed he ends up with a byproduct — a lot of pulp. Is there some potential there? Can we market that some way? We get outside consultants who have the appropriate expertise to look at these problems and come up with solutions. There's product there, we just have to figure out how to package it."

Besides helping existing farmers and beginning farmers with relatively traditional farming systems, the Intervale Foundation has a vision of new possibilities for agriculture.

"We see agriculture as a part of the restorative economy," Ketchel emphasizes. "We need to rethink waste streams and turn them into positive assets. The McNeil Generation Station, for example, is the Burlington city electric power generator. It burns wood. At one time, in the 1970s, the McNeil Station was the only wood-fired generator in the world. A byproduct of the generating process is steam. When Will got here originally he saw this big plume of steam billowing into the air. He said: How about if we capture that steam in a greenhouse."

John Todd, founder of New Alchemy and Ocean Arks International and a Will Raap friend, also was excited by the vision of turning waste streams into assets. He is helping the foundation launch a program called Advanced Farm Ecosystems which looks at how to purify waste streams and bring them into food production.

Todd wants to launch a food processing facility on the Intervale which will include a year round greenhouse heated by steam, and a methane digester. There will also be a year-round classroom and a community kitchen for small scale commercial use. Attached to it will be 6 food manufacturing park spaces. The plan is to rent those spaces to food processing companies that are excited about increasing their purchasing of local agricultural products and will work collaboratively with farmers to make sure they are getting a fair price for their raw ingredients.

"We're trying to show a different way to produce food," says Lindsey, "where the farmer and the processor and the workers can all make a decent living and the consumer can get a decent, healthy, local product. We've been working with potential tenants for a couple of years helping to draft the agreements they would make to be a part of this vision."

One company, for example, will be Magic Hat Brewery. Barley and hops will be grown in the local foodshed and once they are used to produce beer, the spent grains can be used as a medium to produce mushrooms. After the mushrooms are harvested, red wriggler worms will be added and turn the medium into vermicompost. The compost can be sold for salad green production and the worms can be used to raise fish or shrimp for sale.

"The waste stream continues to cycle through various food products while getting smaller and smaller," Lindsey beams. "The opportunities are endless for the varieties of waste streams that are coming out of our society."

Construction on the greenhouse will begin within the next year, she says. The manufacturing space will be delayed another two years. The steam from the generating station will pass through underground tubes to the greenhouse.

Another Project which Advanced Farm Ecosystems is working on is creating scalable anaerobic digesters for dairy farm manure.

Guy Roberts, director of the program, explains why a digester is preferable to composting the manure: "Composting will stabilize the carbon and turn some of the nitrogen into bacteria, but composting isn't a net nitrogen uptake system. In addition, the aerobic respiration by all the bacteria and fungi that tear into a compost pile gives off a lot of carbon dioxide, a greenhouse gas.

"Anaerobic digestion," he continues, "is a process where the same things happen, but without oxygen. The gas that is given off is between 60% and 90% methane, depending on the design of the digester. Now that's a gas you can actually do some work with. My approach for waste biomass is put it through a digester first, take off the methane, then separate out the solids and continue to compost them. The liquid portion will still contain ammonium, soluble nitrogen, and phosphate. It's essentially a fertilizer. We will utilize those to grow a crop in a greenhouse-based cultivable wetland."

The digester is a tube about a foot in diameter and 20 feet long. It has a neck through which you feed the manure. The new material displaces the old, which comes out at the other end. That is passed over a piece of perforated stainless steel covered with a membrane and pressed to drain the liquid out for the wetlands system. The solids are then scraped into a wheelbarrow and composted.

The front of the tube is elevated so manure moves slowly through the digester. The current design has the anaerobic process taking 20 days. Methane bubbles to the top of the tube, is drawn off through a manifold, and can be used to heat the greenhouse or to generate power. Some of it should be used to heat the manure going into the tube. That activates the microbes and loosens up the material so it will move more smoothly.

The cultivable wetland, where the liquid portion of the waste is used, can be built out of cinder blocks with an impermeable membrane draped over it and filled with gravel. It would act like a hydroponic system, and could grow flowers or other crops. Guy is looking closely to see how his prototype deals with pathogens and would like to grow food crops if the pathogens are broken down. In addition to crop plants, the wetland would contain traditional wetland reeds and rushes to take up nutrients between crop cycles.

Guy says that the Environmental Protection Agency is actively encouraging dairies with large herds to use digesters to extract a useful fuel and become more energy self-sufficient, as well as have a smaller environmental footprint. But EPA guidelines say you have to be a large operation to build a digester. Guy wants to show that there are ways to build efficient small digesters.

His prototype – which is designed for one cow — will be up and running in a couple of months. Once he sees how that works he'll design a larger one for on-farm testing next year. That will handle the manure from about 15 cows. The system is scalable so for more cows a farmer can just add another digester. Guy says the payback period, depending on how the energy is used and what crops are grown with the waste, could be less than 5 years. The key is to try to really manage nutrients. Our society puts a lot of resources into making ammonium fertilizers and providing natural gas. Yet those are exactly what you can get out of manure for free.

Roberts is impressed with some of the Vermont farmers who have been talking with him about this project. "They're innovators," he says. "One farmer wants to raise algae in his wetland and make biodiesel out of that!"

The Intervale Foundation also has a youth farm program that pays kids a stipend to grow, harvest, wash and sell produce at local farmers' markets. One of the reasons for the community kitchen in the greenhouse is for them to process some of that food and sell it to the school system. There is also a food security program where the foundation coordinates volunteers to glean excess produce from the farms, clean it, and distribute it through food banks. In exchange for the gleaned product the farmers get volunteer labor on their farms.

Another program is the Riparian Propagation Project that grows Vermont-hardy seedlings. Rather than buying out-of-state seedlings, local watershed associations organize volunteers to collect seeds from maples, willows, oaks and other native trees. The seeds are given to the foundation to grow out organically in their greenhouses and the seedlings are then sold back to the watershed groups for planting. The foundation is also working with the New England Small Farm Institute on a manual "On Farmland" about the options for non-ownership tenure and stewardship.

"Ultimately," says Lindsey, "we'd like to have a toolbox of things that other organizations can do to start up an incubator farmer program, begin a composting operation, you name it. We'd like to be able to provide technical assistance to groups to help make these things happen."

The foundation has about 20 staff now. Two years ago, when Ketchel started, there were 8 full time people and a couple of seasonal workers. The overall budget is about $1.2 million, with over half provided from the composting operation. Lindsey estimates that about two hundred thousand is raised in grants, and the rest is earned from program income.

Right now the group is involved in a major capital campaign to develop the site and integrate all the various programs. "We want the experience here to be seamless," Lindsey says. "You'll have the Eco park over there – greenhouses and food manufacturing. You'll have a community center and a farm stand and a small dairy making ice cream in that barn over there. We'll be making advanced farm ecosystem products here, there will be trails down into the farms, a whole hub of energy.

Stewardship at Quail Hill Farm

by Scott Chaskey

It was while living in Ireland and England in the late70's and the decade of the 80's that I was captured by wood nymphs, piskies, the Queen under the Hill, the Green Man, and other ancient mythologies which flow from the soil. I lived for a time in and around Oxford, on the edge of the Cotswolds, where I learned how to handle a spade while digging vegetable gardens on Boar's Hill. I bedded down each evening in a "caravan" within a walled garden, and I assisted one Mrs. Darby with apple pruning, fencing, and repairs to the stone walls. Land was passed on within a carefully confined, if familial, set of rules, and opportunities to change the pattern of privilege were rare. I was initiated into gardening not by journeymen but by craftsmen. I learned, while pruning roses and double digging, the meaning of the word 'character'. I remember an encounter on a narrow lane with an 80-year old Englishman who lectured me concerning the country life and the only two books worth reading: the Bible, and Shakespeare. Quoting Shakespeare, useful advice for a gardener, he said: "Sweet are the uses of adversity, which like the toad, ugly and venomous, wears yet a precious jewel in his head…" And then he cocked his head, and, for emphasis, stamped the turf, and said: "Imagine the man thinking of a toad at that moment!"

In 1989, while we were on an extended visit from England, my father-in-law, part of the original core of families, asked me to come along to a Saturday meeting for the local, fledgling CSA, in the hamlet of Amagansett, on the South Fork of Long Island. I was not preparing to leap from the steep cliff meadows of Mousehole, Cornwall, where we had been living for eight years, to the flat fields of Amagansett, but in the end I was lured back to the New World by the very strong sense of community in formation at that winter meeting.

In that same year, Deborah Light, an Amagansett landowner (lover of land), donated twenty acres of field and woodland to the Peconic Land Trust, a local conservation organization founded in 1983 by John Halsey (whose ancestor arrived at the tip of the island in 1640). Presented with the concept, John was receptive to the introduction of a CSA farm on preserved land — land that consists of prime agricultural soils. The Land Trust had inherited land and responsibility, so that a stewardship presence and plan, was imperative. The CSA, formed two years earlier and consisting of ten families in search of a reliable source of organic produce, was actively searching for a secure land base. So began an experiment in preservation and active land management that we carry forward, fifteen years later.

For years I have presented the model of conservation land trusts to community farm activists, and the model of community farming to land trust advocates, but the marriage of the two in practice, remains rare. Three or four years ago an aspiring agriculturalist, hoping to form a similar partnership, told me that, after some research we were the one working model he could find. I am aware of several new projects throughout the country, but our society is still in the exploratory stages of building a new commons through public/private partnerships and alternative (radical) collaborations that create stability and support real livelihoods. I feel the possibilities for new working relationships are as real and varied as the multiple examples of CSAs and land trusts that have emerged from American soil in the past 18 years.

Because we are so often asked, perhaps it would be useful here to describe several details concerning our "Stewardship Center," as the sign reads. Quail Hill Farm is, in fact, a project of the Peconic Land Trust. We are a CSA farm that operates as one of the programs of a larger not-for-profit organization. Ultimately, we are governed by the Board of Directors of the PLT, but in practice, myself, as Preserve Manager, in conjunction with other PLT staff and the advisory core group, the Quail Hill Farm Committee, together make decisions and carry out the work. Creating and maintaining a yearly budget is also a shared task, although the farmer is solely responsible for ordering seeds and supplies and hoes and tractors and implements; all monies flow in and out of the PLT accounts. As a full time employee of the Land Trust, I receive benefits, and I am entitled to official holidays and vacation days (handsome on paper). Over the years we have rewritten job descriptions several times, and we have redefined expectations and responsibilities. I still plant seeds by hand, cultivate with the Case 265, turn the compost heaps with the Case 495, and seed oats and bellbeans or rye and vetch in the autumn.

When the original CSA core group began discussion with the Land Trust, several families, uncomfortable with their lack of ownership, split off to form another, smaller scale, community garden. Farmer types who are in search of the allure of an independent lifestyle will certainly have difficulty with the shared decision making process inherent in the employer/employee relationship. I, too, love to escape to the back field on my tractor, but I also have learned that we may expand the goal of interdependence, and thus build real community, through sustained dialogue.

It is not common knowledge that Suffolk County, on the eastern end of Long Island, is an historic farming region, and, believe it or not, presently claims the highest return on agricultural products in New York State. Development pressure is fantastic, of course, and the face of farming has changed radically. Where once there were seventy thousand acres of potatoes, there are now about four thousand. Grapes have surpassed potatoes in total acreage. When land changes hands, it is rare that it remains in agricultural use, although vineyards are the exception to this.

The first PDR program in the country originated in East Hampton Town and locally three environmental organizations are actively involved in land preservation. But second homes continue to sprout in former fields of rye, and the farmer is still an endangered species.

In such a climate, not unusual, only perhaps more exaggerated than elsewhere in the country, our community farm has proven to be a viable alternative. Perhaps because of our example, East Hampton Town recently surprised everyone by opting to purchase 42 acres of farmland, rather than to simply purchase the development rights, and they immediately issued an RFP for organic management of the land. Another community farm is the result.

Quail Hill Farm now serves 200 families, through a summer share and a winter share. Twice a week members visit the farm to harvest their own vegetables (they dig carrots and potatoes, pluck cucumbers and green beans, cut flowers etc.). Since 1990, as a result of our careful stewardship of the original twenty acres, the PLT has protected, parcel by parcel, another 650 acres of land in North Amagansett, adjacent to Quail Hill. Because of our focus on sustainable, organic farming practices, and on community based, educational programs, we have insured access to prime agricultural soils for farmers and farmers in training. Our collaborative efforts, which in turn create more partnership possibilities, have been expansive and varied. In 1995 the farm received a SARE grant to pursue "Community Composting," with Will Brinton as consultant. For the two following years the farm assisted members of the Montauk and Shinnicock Tribes in the creation of a Native garden. Since 1995 we have acted as facilitator for Camp Erutan, an "out of doors" camp for children in foster care. We have received five grants from the Hecksher Foundation for Children, and the farm continues to welcome schools and other local groups to participate in seeding, transplanting, and harvesting. Children from the local, alternative Ross School are active participants at the farm, and twice weekly the Ross kitchen transports their compost (from 1000 daily meals) to Quail Hill. Culinary interns from Ross also work in the field with us, and we have hosted several Americorps teams. From 1998-2001 I taught a course in "Agroecology" at the farm, through the Friends World Program of Southampton College. Through all of these programs young people are exposed to a broad range of agricultural issues, and, more importantly, they are free to make actual contact with soil as a living substance.

As a steward of the Amagansett fields I love to converse as part of the community of soil, seeds, plants, and animals. But also vital is the conversation we have created as a community of people exploring an ethic. Access to land, when viewed as an abstraction to be defined by "property rights," remains as a narrow, restrictive concept. Creative options, and I mean economically viable enterprises which encourage a living agricultural system, are born out of a willingness to acknowledge and support "the stability, integrity and beauty of the biota." At this stage in history we can't really afford to hoard or destroy land, we must learn to take care, to insure availability, and to share it. I am reminded of a great summary, shouted at me through the thickness of a fuschia hedge by one vital Cornishman, Edgar Wallis, who embodied the whole life of the fertile Penwith fields , and who heard, whispered from the caves beneath the cliff meadows, an echo of the voice of renewal: "I took to the land!"

Scott Chaskey is also an educator, having worked as a poet in residence in schools and museums in England and the U.S. He learned to garden in the Cotswolds, and on the cliffs of the Penwith Peninsula. He is a member of the governing council of NOFA-NY, and in 2002 received his first gold medal, for Excellence in Horticulture, from the Long House Reserve. He is completing a book, entitled This Common Ground, to be published in 2005 by Viking/ Penguin.

The American Dream of Farm Ownership is Still Possible!!

This article is being published anonymously.

Lately, it has become trendy for farm service providers to tout alternative land tenure models to traditional farm ownership. The feeling is that farmland, even when it's permanently protected from development, is becoming too expensive for farmers to actually own. While we agree that the estate value of preserved farms has become outrageous, at least in the Northeast, it is still possible to purchase farmland and to become a truly sustainable farmer and farmland owner.

We are managers of an organic vegetable, small fruit, herb and flower farm in a rapidly developing area of the Northeast, and are in our fourteenth year as tenant farmers on land owned by a non-profit organization. Our personal and business goals have evolved while tenant farming. Initially, the primary goal was to be self-supporting, a modest goal obtained in the first year, as business and personal expenses were relatively low. The second goal was to increase rental payments to the non-profit, which was accomplished within five years. Our current goals are to purchase a preserved farm, convert it to organic production and to finally have the security of a "home" farm. In order to encourage any beginning farmers reading this, it's important to note that we have not had the advantage of trust fund or inheritance income, or windfalls from investments in the stock market. Every penny we put toward our down payment on our prospective farm purchase has been derived from soil, seed and perspiration.

We have been looking for our own farm to purchase for about five years and have concentrated our search on preserved farms put up for sale by government agencies or private landowners. In the early years of the farm search, we drove around our state, looking for "For Sale" signs on farms in areas we knew had productive, well-drained soil. Our library contains almost every soil survey for our state. We then got a bit more sophisticated and began requesting that the county farmland preservation offices forward maps showing the locations of preserved farms. We cultivated contacts with realtors who specialized in farmland sales and placed ads in agricultural papers indicating our interest in buying a preserved farm.

This outreach effort resulted in a variety of responses from owners of preserved farms, but the results were disappointing. It's fair to say that most responses to the ads were from landowners that didn't have an interest in selling to farmers, as they were really holding out for purchasers with the deepest possible pockets. We were finally beginning to understand why so many preserved farms, when put up for sale, are marketed as "perfect for horse farms" or "lovely gentleman's estate". Even when we made what we thought were reasonable purchase offers to owners of preserved farms, we received no response, and wondered if these landowners viewed an offer from a farmer as the minimum they could expect to recoup in a sale.

In our state, the estate value of preserved farms has risen tremendously, and increasingly we found ourselves in competition with attorneys, land speculators and other non-farmers for purchase of these farms. Even when bidding at government auctions of preserved farms, bidders are not restricted to bona-fide farmers, so anyone is free to bid on and ultimately own a preserved farm. Even though the state's preservation program staff claims that preserving the farmer is one of the program's goals, not just preserving the farmland, one wonders how allowing sales of preserved farms to the highest bidder is helping maintain the viability of agriculture in the state. While the farmland preservation program emphasizes that even estate farmland will potentially be made available to farmers to manage, the reality is that in our state's preservation program, actively farming the land is not a requirement of the easement. In sum, the government-sponsored auction programs are creating taxpayer-subsidized estates that do not necessarily result in farmer ownership of or farmer access to preserved farms.

photo by Jack Kittredge

New farm: Heirloom tomatoes will be loving the new farm's well drained, sandy loam!

Within the past year, we learned of two preserved farms that were for sale and listed by realtors, but were not selling. We discovered after talking to the realtors that early on in the establishment of the farmland preservation program, a handful of farms were preserved with unusual deed restrictions. These restrictions allow the farms to be owned by anyone; however, if someone wants to live on the farm, they must be "primarily engaged" in farming. This restriction essentially removes the estate value from preserved farms, and was applied to eleven farms that were preserved in the 1980s. The realtors felt that these two farms weren't selling because of the ambiguity created with respect to construction and inhabiting of houses on the farms with this deed restriction. The asking prices of both of these farms are closer to the estate value, versus the farm value.

An owner of one of these preserved farms requested that the state's farmland preservation program reconsider the constraints placed on housing constructed on this farm, but the state maintained that new residential construction could only be for housing of agricultural laborers or a household which will derive its primary source of income from agricultural production. This ruling by the farmland preservation program essentially limits the owner's ability to sell to anyone having an interest in living on the farm who is not primarily engaged in farming. In our state, where sod and nursery producers are the #1 agricultural commodity group, even growers who derived their primary source of income from the provision of landscape services and not the production of nursery or sod products would not be able to construct and inhabit a home on one of these farms. These are, therefore, the most restricted preserved farms in the state. It is not surprising that it is rumored that owners of some of these preserved farms are contemplating litigation against the state, and it is interesting to note that the asking price of both of the preserved farms that are listed for sale by realtors has not gone down since the preservation program's ruling has become public knowledge.

The discovery of this deed restriction on these farms was certainly a pleasant surprise to us, as bona-fide farmers who both derive our income almost exclusively from farming. But we were also dismayed, because this revelation made it apparent that the farmland preservation program, although starting on the right foot, <u>had</u> actually regressed from our point of view. The program had essentially lost the imperative of selling farms to farmers.

Recently, we requested that our Congressman and State Senator look into proposing revisions to the way the farmland preservation program is administered in our state. We have also requested that our state's Farm Bureau study the issue of lack of affordability of preserved farms for bona fide farmers. In addition, we have raised media awareness of the issue and have discussed the matter with American Farmland Trust's staff. Our efforts have been somewhat fruitful, as our state's farmland preservation program created a working group to explore this and other land access problems faced by farmers. During this working group's first meeting, interesting and novel solutions to affordability and access issues were discussed and considered, including:

• State's right of first refusal – During the initial purchase of the development rights of the farm by the state, a landowner would be compensated for the difference between the agricultural value of the land and it's development value, resulting in a larger easement value for the owner (and a larger compensation amount being paid by the farmland preservation program). In exchange, the landowner agrees to give the state the right of first refusal when selling the preserved farm in fee simple. The state may exercise that right and resell the farm to bona-fide farmers or consider assigning the right of first refusal to a bona-fide farmer.

• When auctioning preserved farms, our state has the option currently of allowing a residential unit to be built upon it. Our state can, and does, limit the house size, which limits the pool of people looking for an "estate" opportunity. The state can also choose to prohibit a house from being built altogether, which would result in a cheaper farm, but doesn't help farmers who desire to live on their farms, and also would discriminate against farmers who need to live on their farms, such as livestock farmers. Another remedy is for the state to offer a residential housing opportunity with each farm that they auction with the provision that a farmer can sell back the residential opportunity to the state if it is not needed.

• With respect to the problem of farmers' inability in our state to secure long-term leases, one of the most distressing problems faced by farmers in our state according to our Cooperative Extension Service, the working group discussed the feasibility of amending our state's farmland assessment laws to penalize landowners who do not provide long-term leases to their tenants.

• Another option for long-term lease potential that was discussed was the farmland preservation program acquiring farmland and leasing it to farmers.

In our farm search, the strategy that ultimately paid off was finding farms that we admired from our "drive bys", and then going to the tax assessors' offices to get the names and addresses of owners and writing letters to them. Many letters were sent and some landowners responded, again with prices that were not farm value prices, but more consistent with estate values. Two farm owners responded with offers of help, as their farms were not currently for sale.

We ultimately entered into sale negotiations with a landowner of one of the eleven farms with the more restrictive deed language. We actually had written to this landowner before about our interest in purchasing the farm, but the landowner had not responded to this initial inquiry. However, in the intervening year or so, our farm had received some flattering local press, evidently inspiring the landowner to respond to our second inquiry.

The farm is in an area rich in agricultural and historic significance. The Township in which it is located was settled in the late 1600's, and was strategically important during the Revolutionary War. The house on the farm is thought to be pre-Revolutionary, and is situated on the Burlington Path, a former Native American foot trail. The soil on the farm is fine sandy loam and perfect for vegetable production. There are a few usable outbuildings and an old farm labor house that will need some fixing up before it can be used. The 165-acre farm is bordered on two sides by a creek, and is partially wooded with a lovely, mixed hardwood forest.

The sale negotiations were protracted. Part of the problem was that the landowner purchased the farm from a family member ten years prior, and didn't understand the unusual deed restriction that was placed on the farmland. To further complicate matters, the county preserved the farm (with financial assistance from the state), and over the years county employees had misinformed the landowner regarding whom the farm may be sold to in the future, and who could live there. The landowner was convinced that a "gentleman farmer" could readily purchase and live on the farm, and informed us that we had lots of competition for the farm. We spent hours educating the landowner, who was fairly reluctant to have this particular education.

Eventually, the landowner came around and slightly decreased the purchase price of the farm, making farm purchase more affordable. We retained a real estate lawyer, signed a sales contract, secured a loan commitment with an agricultural lender and had an Environmental Phase I Preliminary Site Assessment performed on the farm.

We were not in the homestretch, however. Another glitch surfaced when it was discovered that the landowner had a three-year lease with a conventional grain grower that did not include the ability of the landowner to break the lease upon sale of the property. The landowner attempted to negotiate some sort of compromise with the tenant, even suggesting that he consider converting to organic production! If the grain farmer was able to farm for the unexpired term of his lease, it would have been the deal breaker, since we would have to wait a total of five years before the land could be certified organic, way too much time to pay a mortgage on land on which we couldn't derive any serious income. The compromise that was struck entailed the landowner buying the grain farmer out of a portion of his unexpired term, and our agreement to allow the grain grower to harvest his winter wheat crop even after our purchase of the farm. Shortly, we will be in the unlikely situation of being landlords of a conventional farmer!

Another huge hurtle that we are in the process of trying to overcome is determining the likelihood of

photo courtesy of author

Child eating strawberry: Sampling the chandler strawberries in authors' PYO fields of rented farm.

securing the appropriate permits to use ground or surface water for irrigation purposes on the farm. In our state, there are several critical and threatened water supply areas within which a new agricultural water user would have great difficulty obtaining permits to pump water from groundwater sources. While the farm borders on a perennial creek and has two existing irrigation ponds that, in the past, were used for vegetable production, the creek may not have the ability to provide adequate surface water for irrigation, due to the demands placed on it from upstream farmers. We are attempting to ascertain irrigation water availability prior to purchase, as it can take as long as three years to get a water allocation permit from our state's Department of Environmental Protection. The farm is located within an area of our state that has the greatest density of preserved farms. While purchasing a farm in an area with such obvious support of agriculture is exciting, the demand on water resources that these preserved farms create is great. In fact, two area farmers, one a flower grower, the other a processing vegetable and small grain grower, have been embroiled for years in a contentious water war. Another constraint, as we have come to learn, is that agricultural water regulations are convoluted and ever evolving, and county extension agents and state Department of Agriculture staff often have not kept up with the regulatory changes. When you've signed a contract for purchase of the most important property of your life, having the deal ride on the mere opinion of overworked, understaffed state bureaucrats is frightening!

photo courtesy author

House on new farm has been vacant for about twenty years. Is thought to date back to before the Revolution (is on the State and National Registers of Historic Landmarks) and is located on old Native American foot trail. Is a stone's throw away from the farm where the cast-iron plow, praised by Thomas Jefferson, was invented.

With respect to the leasing of farmland as a means to create or expand a farm business, we believe there is a place for this type of tenure. At the beginning of the establishment of a farm business, when capital is hard to come by, a farmer may be able to negotiate affordable rent in exchange for maintaining the farm use of the property. In fact, in the area where our rented farm is located, farmers are typically paid to farm most farmland in order to make the property eligible for farm tax assessment, which gives farmland owners a huge break on property taxes. In addition, if the land was recently farmed, equipment may be made available by the landlord for use by the tenant. For the farmer who wishes to own his or her own farm in the future, any money saved by finding affordable rental farmland or borrowing equipment as opposed to purchasing can be money put away for a farm purchase. A business plan should be prepared early on to help the farmer "keep the eye on the prize", so to speak.

However, there can also be many farm business liabilities with the landlord/tenant relationship. In an organic production system that requires that the land be managed organically for three years prior to organic certification, any lease term that is for less than three years has a huge risk associated with it. In the case when non-profits are landlords, one must keep in mind that they have Boards comprised of several members, and not all may support a farm use of property under their control. Many non-profits have access to pro bono attorneys, and can easily afford to pursue lengthy lease negotiations (or litigation) where a farmer's access to adequate and affordable legal representation may be constrained. The non-profit may attempt to fit the farm into its other programming which may entail donations of produce and services, which can become costly to a small farm, both in time and resources. Additionally, a non-profit's oversight of a farmer's agricultural management practices may become meddlesome and unproductive, especially when the non-profit's liaison to the farm does not have a thorough understanding of agricultural production or marketing. Also, the administrative time that a farmer may spend just communicating with the non-profit on capital improvement projects, educational initiatives, etc. may be overly burdensome.

It may be best to plan a potential landlord/tenant relationship with a non-profit or private landowner as a "stepping stone" to outright ownership of farmland some time in the farmer's future. We have come to realize that in order for our organic farming business to be truly sustainable, we must own at least a portion of the land we farm. Recently, a good friend of ours who has been an organic farmer for over twenty years was told by his landlord that he will be evicted so that the twenty-acre parcel he farms can be developed for residential housing. We ask: What is the point of putting that amount of love and stewardship into an organic farm just to have it developed for non-agricultural uses? Is that sustainable? Each year, we loose more prime topsoil to development in our state than has been lost to soil erosion in the past 100 years.

The point that we hope to have made is that it is possible to initiate or expand a farm business by purchasing a preserved farm, but one must research options available through your state's farmland preservation program or non-profit land conservancies and find a fit that works for you. You need plenty of time to research your options and it is essential that you learn who the players in the preservation game are in your state and cultivate positive relationships with them. If you're an organic grower, learn when your use of the "o" word (organic) may help, and when it may hurt. For example, we have found with environmental regulators and land conservancy staff that letting them know you're organic and looking to increase your organic acreage may facilitate their assistance in information gathering. Certainly, let everyone you know in your farm and larger community that you're interested in purchasing a farm, as leads come up in all sorts of situations. After an article ran in our local press about our difficulties finding an affordable farm to purchase, we even had someone drop by the farm with an anonymous donation of cash! With diligence, patience and a little savvy, it is possible to realize the farm ownership dream!

Perpetual Affordability:

Looking Beyond Conservation Easements

by Mike Ghia

The underlying basis for any farm is the land and related building infrastructure that are utilized for the production of agricultural products. Access to affordable farms and farmland has proven to be one of the biggest challenges for farmers, especially new farmers who do not have family or institutional land on which to start. Expanding operations and operations which have lost rented land as it changes hands or changes uses have also experienced many challenges with securing land tenure. In the last decade this situation has become exacerbated, not only by an increase of development pressure, but also by sharply escalating real estate prices brought on by influences such as increased demands for second homes/ vacation estates; a shortage of primary residences for an increasing rural population; an affluent population relocating to rural areas "for a better quality of life"; and even competition among farmers who are expanding their existing operations. Additionally, farmers often lack sufficient retirement resources, which becomes a major reason why many farmers need to get a good financial return on the transfer of their farm.

To help address this challenge of affordable farms, Vermont and other states have somewhat successfully utilized a few "tools", namely "development rights purchase" and "farmland property tax assessments". However, these tools are not perfect and need to be vigilantly reviewed and improved. Additionally, these tools are not always adequate or completely appropriate to specifically address affordability (versus conservation). Furthermore, conservation easements are also not always available or appropriate for every farm situation. If we are looking to not only conserve farmland for perpetuity, but also to keep farms affordable for farmers for perpetuity, then we need to increase the type and sophistication of the mechanisms that are available to keep farms affordable. Thus, we need to keep adding tools to the toolbox.

Conserving farmland, farming, AND Farmers

When it comes to efforts to conserve farmland, a frequent concern of those in the agricultural community is that these efforts recognize the difference between conserving a "working landscape" and simply "open-space". In other words, it is important that these efforts recognize that conserved farm properties must remain economically viable for farmers. The focus of these concerns has generally been on making sure that the restrictions on the land do not interfere with the agricultural practices–present and future, including expanding operations and the addition of facilities for value-adding and agritourism. However, there has also been a concern that the land being conserved also has the characteristics (soil types, parcel size, proximity to support infrastructure, etc.) that will allow it to be viably farmed into the future. Affordability to farmers is theoretically addressed through the purchase of development rights, at least in the short-term. However, until recently, affordability for farmers over the long-term has received little attention by many, if not most, of the conservation organizations and supporters. As a result, most conserved farms can appreciate in value unrestricted.

The assumption has been that a conserved farm will have much more limited market potential since it cannot be developed, and therefore, its resale value will reflect its agricultural value to other farmers. In Vermont, this has largely proven to be true in areas that remain predominantly rural and agricultural. However, in more urban states, such as Massachusetts and New Jersey, and in southern Vermont and other areas of the state with strong economic and population growth as well as those areas heavily influenced by the tourist economy, the values of these properties continue to rise rapidly. As it turns out, these properties are highly desirable to second-home owners, telecommuters, and other non-farmers who wish to own a "country estate". Additionally, in Vermont, farms are conserved as whole units that include the land, barns, and housing. As housing values continue to escalate throughout the country, these houses can drive up the value of a farm significantly. Consequently, Vermont is considering following Massachusetts' lead and conserving only the land, instead of whole farms, allowing the houses and barns to be sold separately on the open market. The problem with this, of course, is that farmers still need affordable houses and barns, so this approach only skirts the issue.

photo courtesy Mike Ghia

Mike and his son Elijah at their sheep farm near Saxtons River, Vermont.

To give an example, my wife and I rented a conserved farm in southeastern VT from 1997 to 2002. The farm consists of two houses (one with two apartments), a 100-year-old bank barn, three other out buildings, and 135 acres (100 open, and maybe 25-acres tillable with 5 acres in prime soil). The owners had bought the farm in 1995 with the help of the Vermont Land Trust (VLT). When the appraisal was done for the easement purchase, the "fair market value" or "before" value was $415,000. The conserved value, or "after" value was $252,000 with the difference between the two values representing the value of the development rights. When we tried to buy the farm in 2000, the same appraiser who had done the appraisal in 1995 calculated the conserved farm's value at $340,000. While the 35% increase in the farm's value between 1995 and 2000 was partially due to the renovation and division of the larger house, it was clear that the greatest influence on the theoretical value of the farm was the local real estate market. It was noted in the appraisal that real estate values in the area had grown by 20% in five years. Part of the problem, of course, is that there are two houses with the property, which the easement requires to be held by the same owner as the rest of the farm. Removing the two-family home from the property, through subdivision, or through an alternative ownership arrangement, would have reduced the value of the farm by $133,000 in 2000. But it is still important to recognize that the remainder of the farm would have grown in value by 20%-35% even though regional farm income did not increase by that amount. This is because farm appraisals in this part of the country are based on "comparable sales" (the sale of comparable properties) which will be influenced by more than farm income.

In April of 2003, the town reassessed the farm at $431,000. It is important to recognize that the town does not take into consideration conservation easements in its assessments. However, at the same time, there is nothing in the easement that says that the farm could not be sold at that amount and so this value may actually reflect its potential resale value.

To use another illustration, in 2000, a “Midwest business executive” bought a conserved 360-acre farm on the open market in the Mettawee River Valley in southwestern Vermont for $550,000. This was estimated to be twice its “agricultural value”. The owner now keeps a few horses on the farm and rents out the remainder of the farmland.

In another example, in 2002, the VLT, for the first time in its history, acted on their “right of first refusal”, which is a part of all of its easements. In this case the owners of 279-acre dairy farm (with 3 housing units) in the lower Lake Champlain Valley had entered into a contract with a non-farm couple from New Jersey who had offered $325,000, and agreed to rent the farm to neighboring farmers. The VLT matched that offer and found an area farmer to buy the farm. They also placed additional restrictions on the farm’s future resale value. The only reason that the VLT was able to do this was that, in this case, the offered purchase price on the farm did not deviate too greatly from the “agricultural value”, especially considering the amount of housing on the farm. However, the VLT recognizes that, as with the Mettawee farm, they cannot always afford to act on their right-of-first-refusal since they are required to match the buyer’s offer.

Currently, most conservation easements only require farmland to be kept open, including clear of brush and encroaching forests. Some have language that requires conserved parcels to be farmed, but most lawyers agree that this is generally unenforceable–you can’t force someone to farm. Easements in Vermont allow the “easement holders” such as the VLT to bring in a farmer to farm the land, or at least to keep it open, in the event that a landowner abandons farming, or at least mowing the land. Thus, as long as non-farm owners of conserved farms keep the land mowed, there is nothing to legally require farmland stay in farming. While at this point, most conserved farms in Vermont are being transferred to other farmers, these examples demonstrate that conserving the land is not enough to keep farms in farming or in the hands of farmers.

Increasing the Tools–Broadening the approach

It is important to recognize that conserved farms make up only a very small portion of the farms in the Northeast. Every year, applications to Vermont’s highly competitive conservation programs are turned down due to limited funds, and this happens in most other states as well. It is also more difficult to conserve and make affordable the small farm parcels that are desirable to many of the young farmers starting up, since the per-acre value of smaller parcels is often greater than the per acre value of larger parcels. We also have to recognize that anything that we do to keep down farm values has the potential to reduce the farmers’ equity and thus, their ability to borrow money and secure a retirement. So, even as we look at ways to keep conserved farms affordable, it is important that we not look for all the answers from the conservation easement model. We need to be open-minded and also recognize that not every idea will work for every farm and for every generation. We may often need to customize our approaches and be accommodating to the needs of individual farms and individual farmers. We need to be creative and innovative–”think out of the box”. And the “we” has to be all of us in the agricultural community.

We are at a point where we are only really beginning this discussion. So, beyond the typical conservation easement, we do not yet have a significant number of tools at our disposal, and the few that we do have been limited in their examples. But, here are a few attempts at addressing long-term farm affordability:

Option to Purchase at Agricultural Value

Fortunately, there is becoming an increasing awareness of the long-term affordability issue among the conservation institutions. This last year, the VLT and one of its primary funding sources, the government entity known as the Vermont Housing and Conservation Board (VHCB), began to take a first stab at protecting conserved farms from price speculation. Holding 4 public hearings, these organizations began seeking input on the idea of placing “an option to purchase at agricultural value” (OPAV) clause into all future conservation easements. The OPAV has been a feature in Massachusetts’s conservation projects for the last 6 years. The OPAV replaces the “right of first refusal” clause, allowing the easement holders to pay “agricultural value” instead of the buyer’s offer, if they are concerned about the sale of farm. As with the right of first refusal, the OPAV would not apply to sales within families.

photo courtesy Mike Ghia

This farm has been conserved from development for perpetuity, but can it remain affordable to farmers?

The most important aspect of the OPAV is that it seeks to have owners sell the conserved farm at “commercial agricultural value” as determined by an independent appraisal rather than at an “estate value”. As a back-up to protect farmers’ equity, the owner can also chose to sell the farm utilizing a formula that uses the “after value” at the time of the easement purchase, adjusted for inflation using the Consumer Price Index (CPI), and also takes into account “improvements” added since the easement sale. The easement holders may also chose not to act on the OPAV for various reasons including that the buyer is a bona-fide farmer who intends to farm the property in such a way that they could justify paying more than the value calculated by either of the two methods.

If this sounds complicated, it’s because it is. For a more thorough discussion, go to www.vhcb.org/agoption.html. In part, due to its complexity, the idea did not receive a favorable response from most of the farmers in attendance at the hearings in Vermont. There was arguably more support for the concept in general from those “entering” farming than those “exiting” farming or near the point where they might retire. The biggest concerns are around “fair compensation” for giving up additional property rights, effects on equity in borrowing, and most of all on retirement and inheritances for the children of farmers. There are also concerns around defining and accurately calculating “commercial agricultural value” and defining who is a “farmer”. Also, there is a question as to whether the CPI method will actually protect affordability (see the VHCB website for a short-term example). There is also concern as to whether this can effectively and fairly be applied to farm housing and other infrastructure, especially considering the complexity of home values and their ties to personal equity and wealth in this country. This is another reason why Vermont is considering conserving only the land and not whole farms.

The VHCB and VLT have proposed paying additional money for the addition of the OPAV to easements. They are currently still working with appraisers on figuring out how to calculate the “estate value” versus the “commercial ag value”. But, based some on the experience in Massachusetts, the VLT provided this theoretical example:

$400,000 “Before Value/Fair Market Value”
-$150,000 “Development Rights Value”
-$50,000 “Affordability Option Value (OPAV)”
$200,000 “Commercial agricultural Value”

An important question is, would this $50,000 really be enough to be both fair compensation and also accomplish the goal of affordability? Part of the answer lies in the hands of the farmers and what they do with that $50,000 value. If the owner retains the farm and puts that $50,000 into a tractor that quickly depreciates, then it is not a lot of money. But, if they can put it into a retirement fund that yields a minimum of a 6% return, then it grows as follows:

10 years: it value reaches $84,473
20 years: $151,279
30 years: $270,919

(Note: changes in tax laws would probably be necessary to allow the investment of all $50,000)

Furthermore, the farm will continue to appreciate somewhat during the same time period, even if the resale price is determined by the CPI method (see website).

Likewise, if the farm is sold to a new farmer at the time of easement sale, the Option does not just save the buyer $50,000. The new farmer could save approximately $4000/ year on a 30- year mortgage. If the farmer puts the money into a mattress, then by the end of the 30-year mortgage, they will have saved $120,000. But, if the farmer takes that $4000/year saving and puts it into a retirement fund, then at 6% growth, $4000/year added to an annuity/mutual fund becomes $316, 232 at the end of 30 years. One of the key questions, of course, is whether someone buying the example farm at $200,000 will actually make enough money farming to have that extra $4000/year to put into such a fund. If not, then that farmer will need to rely more heavily on the farm sale when they get to retirement and the OPAV may actually hurt them. The key lies in calculating “commercial agricultural value” in a way that somehow reflects farm income. Appraisals using “comparable sales” may not be the best method to do this, but it is currently the only commonly accepted methodology in this part of the country, and there is resistance to investigating other approaches.

Assuming the money is available, the farmers could also use the money/savings to buy unrestricted, speculative real estate or other types of investments that may give them a better return. But, in any case, the point is that in order for us to relieve some of the pressure on farm property values, farmers need to consider alternative ways to retiring than just on the value of their real estate. Otherwise, the payment for the option, like the payment for the development rights, will only benefit one or maybe two generations at best.

A Farmer Retirement Plan

Since often the driving force in the asking price for a farm is the need of the owner to have enough resources to retire comfortably, it seems that a key component to any initiative to keep farms affordable to the next generation would be retirement planning. Land Link Vermont, UVM Extension and other such programs elsewhere have recognized this issue and have been working with farmers on both retirement and estate planning. The difficulty lies in that many farmers, after all the bills and family expenses are paid, often have too little surplus income to put into savings, let alone for retirement funds.

A possible, partial solution to this dilemma is to perhaps set up some sort of farmer “retirement pension plan”. Such a plan could be modeled after State Employee and State Teacher Pension Plans. The basic idea in such a plan would be that the retiring farmer would only be eligible if they transferred the farm to another farmer, preferably a younger farmer entering the vocation whenever possible. While it would require the fund managers to define a “farmer”, they would not necessarily have to be involved in evaluating the farm value. As long as it is transferred to a farmer, then theoretically the buying farmer and lenders would be determining affordability. The pension would also be a financial incentive to keep the farm price in the affordable range, provided the pension was sufficient in size.

Such a plan has the great possibility to stretch the public investment further and assist a greater number of farms than can be assisted by easement sales. In theory, like in other pension plans, the money would be invested and, therefore, grow over time, whereas state-run conservation easement programs usually rely on annual legislative allocations that are used in the given year allocated. Further, the money would be paid out over time as opposed to one lump sum as is the case with most conservation easements. Eligibility for the program would also be based on transferring farms between farmers rather than rating the farms according to soils and other characteristics. So “hill farms”, very small farms, and other farms that are often not eligible or not competitive in the conservation process could benefit from such an approach. Most importantly, a pension plan could be continued for multiple generations, whereas the sale of development rights is only a one-time infusion of cash.

There is at least one precedent for this approach. The European Union has set up and provided for such a plan, beginning during the last decade. The goal of the program is largely as an early retirement plan to make room for new farmers. According to UVM Extension Specialist Dennis Kauppila, in 2000, the program was 75% funded by the European Union and worked as follows: “…The Farm Retirement Scheme is a pension plan for farmers of 55-66 years of age. It offers a pension to farmers of a basic $5700 per year plus $180/per acre. This amounts to as much as $14,300 maximum yearly payment. It is paid monthly for up to 10 years or until age 70, whichever is first. A retiring farmer must have been farming for at least 10 years, as their primary occupation. The farm must be transferred by gift, sale or lease to a qualified young farmer. The young farmer must be under 50 years old, and if under age 30, must have been farming for at least 3 years and have completed a 150-hour training course. If over age 30, s/he must have been farming at least 5 years. Farm employees on a transferring farm, aged 55-65 years qualify for a special pension of $5,700 per year.” For an up-to-date description of the EU plan, you can go to the website for the Irish Department of Agriculture (http://www.irlgov.ie/daff and then go to “Schemes” then “other schemes” then “Early Retirement Scheme”).

While limited in scope and in direct application to the United States, it has generally been considered successful in aiding new, younger farmers to access land. If the pension number seems small, remember that, over 10 years, it amounts to $143,000 which is similar to what many farmers get paid for their development rights. Further, the farmer will also receive the proceeds from the transfer of their farm and the sale of livestock and equipment. How such an idea can be instituted here in the US is a question that will take a great deal of research. After over 2 years of trying to interest people in the agricultural community in this idea, I am pleased to be able to report that this spring, a student at Vermont Law School is doing research on this approach as a part of his internship with the VLT. Any information or support that can be directed towards that research would be greatly appreciated.

Alternatives to Conventional Ownership Models

Clearly, conventional ownership is not the only way to access farmland. Renting or leasing a farm is a particularly useful approach, especially when starting out. Incubator farms such as the Burlington Intervale (see related article) are also proving to be important in assisting new farmers to access land to get started farming. We need more opportunities like them. Likewise, the community land trust model where the farmers own the improvements (houses, barns, etc), but only have a “life lease” on the land, which is transferable to their heirs, deserves much more attention (see related article from Equity Trust). These are examples of where we need to open our minds to deviations from our entrenched views of ownership and the make-up of the family farm in order to develop new approaches to addressing affordability.

Key to making all of these approaches work is the recognition of the legitimate concerns of farmers around security, protection of capital investment, equity, retirement, and true affordability. Traditional rental situation often offer the farmer little security, equity, or incentive for long-term stewardship. Alternatives to traditional ownership must be structured so that the farmer still feels ownership in the farm. There must be security in tenure so that they will be able to make capital investments in infrastructure without hesitation.

Alternative models also have to be truly affordable. For instance, a co-housing community near Burlington, Vermont has had a great deal of difficulty finding a farmer to buy into the project, even though one of the housing units was designated to be “affordable” with a farmer in mind. One of the problems is that the unit price is based on affordability standards for one of the highest income counties in VT, and thus probably costs 2-3 times what would be considered affordable for most farmers relying on farm income. In fact, the cost of the house would buy whole farms in other regions. Likewise, the cost of the land lease needs to be sufficiently below the cost of traditional ownership to warrant the farmer giving up the equity they would gain by owning the land. In both cases, funding sources beyond easement sales are often required, or at least a distribution of the land costs between farming and non-farming families.

The Wellspring Land Co-Op in Plainfield, and the Earthbridge Land Trust in Windham County, are two Vermont examples of the community land trust model that, thus far, have been successful in keeping land tenure costs and housing costs affordable to farmers. We need to look to these models and other like them, not just for information, but also for inspiration. As with all the positive stories of the positive results of conservation easement sales, we can look to them for hope for the future of farming in the Northeast. They hopefully will also stir our creative juices to produce new approaches.

Bringing Ideas Together

Farm affordability is a difficult and complicated topic. This being the case, the more people who collectively bring their ideas and proposals and energy to the table the further we will get in addressing this challenge. We cannot rely on institutions to give us all of the solutions anymore than we can expect institutions to give us all of the solutions to our production and marketing problems. Farmers and others interested in supporting efforts to sustain agriculture need to participate in, and even create, forums directed towards assisting policy makers, lenders, and institutions such as the land trusts and land linking programs in generating new and better approaches to keeping farms affordable. It is important to get everyone to the table to think about the future of the agricultural landscape in the Northeast, who will own it, and how present and future generations will afford it.

Mike Ghia farms with his wife, Margo, and son Elijah in Saxtons River, Vermont. He is also a farm consultant and a member of the Advisory Committees for Land Link Vermont, the Vermont New Farmers' Network, and Northeast Growing New Farmers.

Farming at the Urban Edge

by Jack Kittredge

Rhode Island is the most densely populated state in the nation. Although once there were farms coating the inland areas, the same suburban and development pressure hit here as in every other urban area. Except here there were far fewer acres to absorb the clamor for a home and yard of one's own. So when the farms started going on the auction block, it was a shorter, faster process.

One of the few organizations to actively fight this trend is Providence's South Side Community Land Trust (readers of this paper may recall the feature on that organization in the Spring, 1999, issue on Urban Agriculture.) The group started up a community garden and small farm on several vacant blocks in South Providence. These endeavors were so popular among the neighborhood's immigrant population that recently the organization opened up a farmers market right on Broad Street.

"There was nothing in the area like it," states Pat McNiff, ex-program director at the community land trust, "and a lot of WIC coupons and cash that could go to buying fresh local food wasn't doing so. So we started it. We're the only market in the state that accepts food stamps (they now come like a credit card and the merchant has to have a card reader and a phone line to accept them). Now the Cambodian, Hmong and West African communities in that neighborhood come to our market and buy both staples and specialty crops they're familiar with in their own countries. Products like Amaranth, pea tendrils, and bitter leaf all add to the market's diversity."

One sign of the success of the community garden was that some growers were quietly gaining control of several different plots so they could grow more food and sell it. McNiff says the organization put rules in place to limit that, but also took it as a sign of real interest in farming as a business venture. So they started developing programs for people who wanted to farm as a business, and began looking for more land. Although they were looking in Providence, as luck would have it a place in Cranston, 8 miles away, turned up.

It had been a dairy operation, but the owner also raised chickens and turkeys and had a small slaughter operation. In fact some of the Hmong that Pat had been working with in Providence used to come out to Cranston to have their animals slaughtered and participate in ceremonies. The farmer finally passed away, however, and left the place to a group which works with the blind. They didn't really want it and planned to sell it and use the proceeds for their work. But the state, along with some non-profit groups interested in preserving farmland and the city of Cranston, bought it. The development rights have now been separated off so it will continue to be used for agriculture.

Although the property is in a residential area, it totals 50 acres. Four are in open fields right along the street, between neighboring houses, then a pond and about 20 acres are open in the back, past some woods. There is another open field of a few acres, and a wetland. There are also three houses as a part of the property and a number of outbuildings in various states of disrepair.

The team that had bought the property, spearheaded by Ken Ayars, the state's Chief of Agriculture, was supportive of what the South Side group was doing to encourage urban farming. So they asked them if they would like to take over the Cranston farm. The opportunity seemed ideal for the community land trust, given the need for more land they were feeling. So they took over the farm, calling it Urban Edge Farm, and entered into a 5 year lease with an option to purchase for $1 when the lease expires.

"At first we thought: 'Fifty acres! What can we do with so much land!'", says Pat. "But by the time we got out here we were saying: 'We need more! Fifty acres isn't enough!'

photo by Jack Kittredge

George and Chang Xiong, Hmong people originally from the mountains of Laos, show some of the green beans they picked for market.

Pat was particularly excited about the new opportunity and was hired as farm manager, giving up his job as program director.

"We got to the point," he explains, "where a lot of the things I wanted to do when I signed on as program director were in the pipeline. I got tired of pushing a pencil all the time. So this was a chance for me to get back to what I wanted to do. It's a pretty lonely existence out here this getting it all started."

Having once been a dairy, a lot of manure has been put down over the years and the farm's soil quality is great — rocky, but fertile. Also, the building that had been used as a slaughterhouse has a walk-in refrigerator that will be handy for the CSA Pat plans to operate. But there were some negatives to the property.

"When we came on this property we pulled out 6 dumpsters of trash, 3 and a half dumpsters of tires, and about 2 acres of multiflora roses," McNiff relates. "We had a group of Americorp and Triple C workers here for 8 weeks to help us cut brush, pick stones, pull garbage out of the hedgerows and off the stone walls. Altogether we had over a thousand volunteers help here since we took over the property about 6 months ago. Some of the buildings we can fix up, some will have to be torn down. It's helpful to have a few places to store things and get out of the rain."

The farm has three basic purposes, according to Pat. One is a farm business incubator, similar to a traditional business incubator where several ventures get together and share office space, a copier and other services. It's the same concept at Urban Edge. They bring together people who haven't traditionally had access to land and the resources they need to get into agriculture. In the Providence area that is mostly from the immigrant and minority communities.

As McNiff puts it: "We say we're looking for people who haven't had access to land through income or social prejudice, and that's mostly minorities and immigrants. The different ethnic communities have roots in the soil. When my grandfather came from Ireland the first thing he did was build a community garden across the street. The exciting thing about working with this community is they really appreciate good, fresh food, raised naturally. That's what they're used to. It's exciting for mothers to be bringing their little kids to the farmers market. They get to taste real food again and make those memories part of their experience."

Farmers in the incubator program get land (up to one acre plots), technical training, business and marketing training, and access to an equipment bank where they can borrow equipment. They get this help to try to grow their business for four years. After that the program tries to match graduates up with available land they can buy land or lease from a state agency or a community group or land trust.

"We charge $300 for the land and administrative services, equipment and seeds are extra", Pat explains, showing me the equipment bank. "We got a grant to buy a lot of new tools. Farmers can come here and get a scuffle hoe or fork and sign it out and back in on a clipboard. We have a backpack sprayer, shovels, seeders, rakes, garden carts, wheelbarrows. For things like the 2 rototillers we have a list of things to check – oil, gas, gear oil, etc. We charge them by the hour so that when they plan for their business they think about the value of equipment and how much they use certain items. It they decide it's better to buy their own, we have a small loan fund to help them do that.

"We have a tractor," he continues, "but I do all the tractor work. A lot of hands can be rough on common equipment. Eventually we'll have another that they can use cooperatively. We have a small cub that they can use for cultivation, along with simple tools to do adjustments. Each of the farmers has a key for all the buildings so they can get equipment or fertilizer when they need it. We apply compost each year and do initial tractor service in the spring and break-down at the end. They get water as part of the fee, although we didn't have it this year. We figured out the average rental around here was about $180 to $200 just for the land. So we based our estimate on that and added in the extra services, training, etc. We're trying to create a somewhat close to market experience for them."

When Pat become farm manager the first thing he did was go around and meet all the local farmers. "They're pretty conservative," he smiles, "and there were a lot of rumors out about us subsidizing a lot of immigrant and minority folks to learn to farm. They didn't know we charge them a fee, that they have to pay for equipment. So when they learned that, it made a difference. Their attitude was: 'Ok, so they're paying. They want to make this a real business. I understand that.'

photo by Jack Kittredge

Pat McNiff stands in front of the Asian pumpkins in Chuoa's acre plot. Chuoa has somewhat different farming methods from his brother George. He doesn't mind trellising, for instance.

In addition to paying the fees, growers are expected to attend monthly meetings to talk over all aspects of the program from a farmer's weeds to how the equipment bank should work to what classes there should be. They have to understand and agree to use organic practices and cover crop a portion of their land.

"We think now that we can give only up to one acre to an incubator farmer," McNiff says. "We're looking to have about 12 growers out here eventually. So about 12 acres will be in the incubator program. But if we could expand this program beyond 50 acres I'd love it. I'd like to get people onto bigger plots, maybe up to 5 acres, if we could."

The farm has had some big challenges their first year, however. For one, they didn't get their irrigation hooked up. The second was not having greenhouse space available, especially for farmers who are growing some tropical or subtropical plants to get an early start. Currently they're doing fundraising to buy a greenhouse. They already got a grant to expand the so it can serve a large irrigation system, both trickle and overhead.

In advance of setting up the incubator program, South Shore Community Land Trust set up a cooperative marketing relationship with their growers. They can drop off their produce and the coop will sell it for them for a commission. The existence of such a relationship helped encourage farmers who were skeptical about success that they could actually make money farming.

"One of the biggest lessons we're teaching here," stresses McNiff, "is getting the best value you can for what you put into your crops. A lot of growers will undervalue their time and labor. But there's a good market for this stuff. There are really two markets. One is the traditional ethnic market:L 'I'm a certain nationality and I want to buy vegetables that come from my country'. Then you have the Anglo folks who are experimenting with fusion cooking and are fascinated by new vegetables. They'll talk to us at a farmers market and go home with pea tendrils for stir fries, salads. They like to try new things"

Urban Edge growers are selling to markets that really want the product, Pat stresses. In fact, they can often get two different prices, one to a community market and the other to a fancy downtown restaurant. The biggest goal in an incubator, he says, is that the farmer has success, and ideas for how to do even better next year. At the start of 2003 there were 9 or 10 farmers interested in joining the incubator program. Only 4 could be selected for the available land, however.

"We have an application process to select the new farmers," Pat explains. "First they fill out written applications (we can provide translation if needed.) That way we understand their goals. Then we interview the applicant. Then we choose who gets the slots. This year we chose four out of a pool of nine or ten. The committee making the decisions included the state chief of agriculture, an organic farmer – Polly Hutchison, representatives of the Cambodian Society, the Hmong United Association, and a Nigerian group called Oasis International. We also had three of our staff – the incubator coordinator, the program coordinator, and our executive director. This year it will be the four farmers in the group, the chief of agriculture, me, the incubator coordinator, and one other farmer."

The four farmers who were selected this year represent a pretty good cross section of the immigrant community. There is Lon Tang, a Cambodian who had previously farmed a 5000 square foot garden in the city, where he raised vegetables. He was netting about $2700 for that selling to Asian markets and restaurants and wanted to get bigger, so applying for the incubator was a logical step. Although he has been sick a lot this year and thus some of his fields are weedy, he has harvested the wild amaranth growing as a weed and made a couple of hundred dollars selling it at the farmers market to other Cambodians who like it.

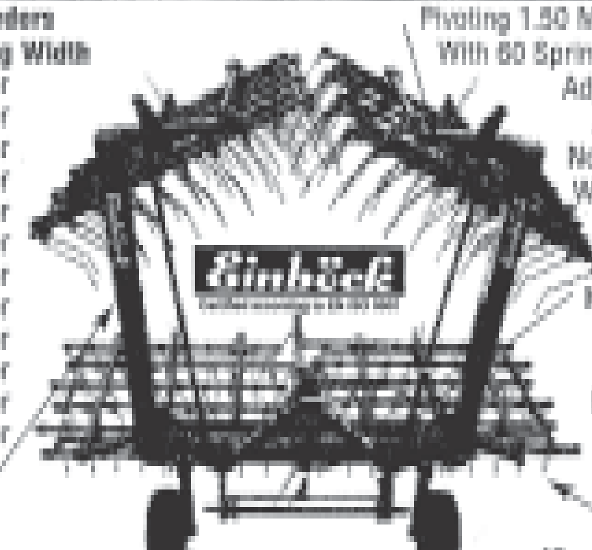


photo by Jack Kittredge

Pat helps John Kamson use potting soil to grow out a popular West African plant called bitter leaf. It's so bitter that John wears gloves so his hands won't pick up the bitter taste of the leaves.

Then there is John, a native of Nigeria who runs a fish market in Providence. He likes to grow crops like Pattypan squash, hot peppers, jute leaf, Malabar spinach, taro root, amaranth, and sweet potato greens for various West African communities. He sells through the marketing coop as well as at his fish market. One crop he is researching is called "bitter leaf".

"This is bitter leaf," he says. "It's so bitter you have to wash it twice. I wear gloves to keep it off my skin. It has some sort of medicinal value for diabetes, as well as being popular in cooking. It's native to Nigeria but there's a good market here in New England for African crops. You have communities in Boston, Providence, Hartford."

John is trying to find how to grow it here. In the tropics it is a perennial but Pat is doubtful if it would survive winter here. So they are propagating cuttings and growing them out over the summer. John plans to keep them over the winter in a greenhouse and then plant them in the spring.

The other two incubator growers are Chang and Choua Xiong. Choua is the brother of Chang's husband, George. All are Hmong. The Hmong people were originally from China but were pushed out of China into Southeast Asia, where they were then pushed up into the mountains of Laos and Vietnam. They have their own language and culture, and call themselves the "snail people" because they move slowly but are persistent and can carry a lot. The Hmong were supporters of the Americans during the Vietnam War. After the war they were pushed out of Laos into refugee camps in Thailand. The US government has a preferred immigration status with them for their support, however, and helped them resettle into the US in the 1970s, including bringing a lot to Lowell and Providence.

The Hmong have learned how to grow in tough places, observes Pat, which suits them for farming in New England. Besides growing American staples, they grow things like Thai eggplant and lemon grass and bitter melon – specialty crops from their countries.

The Xiong's were originally from the Laotian mountains. Choua has nine children, of whom the youngest is 8. They all work together at the market, and the parents often bring their kids to help weed or harvest. Choua grows beans and peas, peppers, squash and Asian squash, Asian broccoli, carrots, lettuce, dill, cilantro, cucumbers, bitter melon, and Asian pumpkin – from which he harvests and sells the tendrils as well as the pumpkins.

Choua does standard row cropping, but on Chang's side of the garden is traditional scatter planting with mustard greens, bok choy, and cucumbers all intermixed. Scatter planting saves space because there are no pathways, but Choua says he can harvest faster and monitor pests better with rows. Chang says scatter planting confuses the pests.

Chang and her husband George have four kids, the youngest of whom now is a teenager. Her father farmed ten acres in Laos and she seems determined to continue the tradition. They sell their produce at the Broad Street farmers market where there are lots of people from Cambodia, Thailand, Laos, Vietnam, as well as at several others.

"Chang is the boss, I am the worker," George is quick to make clear. "When I retire I will do this full time, but now I work for the Providence police as a dispatcher. I almost have 20 years in. We sell in the Asian markets and the flea markets. Everything sells well. Squash leaves are good sellers. People buy my vegetables like birds eat corn. I go to a market in East Greenwich every Sunday. I get there at 6 am and I need two or three people packing vegetables and one collecting the money."

George has strong feelings about the varieties he likes to pick. "This is a bush bean, not a string bean," he points out. "String beans you have to put up on sticks, I told my wife 'No! All those wooden sticks are too much! Plant bush beans.' I don't mind stooping. I wear knee pads. That way I can go through every row, no problem. But if I didn't do that, wow, I'd be like a goat!"

They sell the beans for $1 a bag. They just sell by volume, partly because then they don't have to buy an expensive sealed scale, and partly so they don't take time making change.

Asked about the differences in farming here and in the Laotian mountains, he said: "Over here it's better to farm because it's easier. You have tractors, trailers. We used the water buffalo to plow. No tractor, no gas. Just grass. We would sell wholesale in the city. We raised vegetables, rice and corn. The corn was to feed the pigs and chickens. In my country people don't eat corn. We eat rice. Over there you have to use hands, cow, water buffalo, carry things miles. It's hilly and cars can't go through the hills. Here, I wish we had a couple of tractors and I didn't have to do everything by hand. It's a lot of work."

George and Chang also raise long-necked Laotian chickens at their home in Johnson to sell exclusively to the Hmong community. Hmong buyers like to buy the bird alive and slaughter it at home, to make sure it's fresh and in good health

McNiff has big plans for the farm. A second project is to open a low income CSA on the four acres currently used by the incubator. A third is to open an educational center in the old barn, once it is restored. Next year he hopes to hire an assistant farm manager and have a farm hand employed and living there.

"For the low-income CSA," he elaborates, "besides being able to take food stamps and work shares, we will take payment plans – like a rent. There will be an up front payment and then regular payments. We hope to have some scholarships too, if we can get some higher income people to buy shares. We'll have a distribution area here and one at our urban farm site combined with either a pick-your-own or specialty crop production area. We might even have a distribution point at the farmers market. We're thinking of adding in eggs and meat to the CSA if we can get them produced. I'd like the CSA to be sustainable, to earn money. We want to be able to have the CSA support some of our other programs.

photo by Jack Kittredge

George prefers bush beans to pole beans.
He doesn't like putting up all the poles necessary for them to climb.

photo by Jack Kittredge

Pat shows some of the tools available for the incubator farmers to borrow. Clipboards hanging on the wall on the left are for keeping track of every tool and who has it.

Despite their location just off a state highway, Urban Edge will not have a farm stand. Pat is concerned, as a non-profit, about competing with nearby farms. But he is looking at an eventual composting operation. There are a couple of dairy farms around he can get manure from, and they are really close to the landfill so he figures he can get a lot of landscaping waste – leaves and grass.

Also, he'd like to introduce pigs and chickens there, partly to clean up some of the overgrown areas. He has talked with the pastured poultry people and is thinking seriously about using chicken tractors. A little aquaculture project out in the pond might be in the works, too — growing fish in giant cages. Pat thinks he could get the Southeast Asians involved in growing fish from their culture. Next year he hopes to do a mushroom experiment and would like to get the house kitchen fixed up so they could use it for pies and jams.

"We're lucky because we have fields and wetland, pond and woods – a lot of different ecosystems," he says. "The area where all the stinging nettle is now will be cleared for a children's garden. We're thinking of putting in trails in the woodlands and maybe even a platform trail in the wetlands so people can see it in all seasons without disrupting the ecology there. We want this place to be hopping with a lot of things going on. We want people to see this farm through a couple of different lenses – food production, children's activities, small scale animal production."

The New England Small Farm Institute

by Wendy Kaczerski and Kathy Ruhf

Twenty-five years ago a few agrarian advocates, desiring to recreate a vibrant and sustainable regional small farm sector, founded the New England Small Farm Institute (NESFI). Since that time, NESFI has provided educational support and advocacy for New England's small farms in a number of ways. The Institute's Small Farm Development Center provides direct assistance to aspiring, new and developing farmers. It offers courses, workshops, information services, the Small Farm Library, and publications. Matching programs like New England Land Link (NELL) and Northeast Workers on Organic Farms help farmers and aspiring farmers find land and on-farm learning experiences. NELL also offers consultation, publications and workshops on access to land and farm transfer.

By an Act of the Massachusetts Legislature in 1986 the Institute manages Lampson Brook Agricultural Reserve, a 400-acre publicly owned farmstead in Belchertown, Massachusetts. In October 2003, NESFI signed a long-term lease with the Commonwealth. This agreement enables the Institute to seek partners to invest in substantial rehabilitation of the site, and to offer secure tenure to its "farm partners". Five farm partners run a variety of farm businesses on 70 acres of the site. The partners have the option to sign leases of 5 to 20 years. They must farm according to organic standards. They commit to sharing responsibility for land management and have the opportunity to participate in delivering educational programs. Because NESFI is both a tenant (with the Commonwealth as landlord) and landlord to several farmer tenants, it is uniquely positioned to consider all the issues associated with "non-ownership" tenure.

On the NESFI site, the farm enterprises range in size from 2 to 50 acres. The size and type of operation is flexible and is negotiated between the farmer and NESFI. NESFI has a contractual obligation to the state to host diverse farming operations on the site, and to ensure that the operations are the appropriate size for their use in order to be economically viable. Some of the leaseholds involve specific demonstrations of sustainable natural resource management, and these must be maintained and accessible for educational purposes.

NESFI provides some office space, a kitchen for farmers and workers, storage space, utilities and water to some fields. Rental values are calculated for all uses and collected annually. Some farmers own their own equipment; others rent it from a farmer-teacher on the site. They also borrow from one another. Two farmers have invested in several hoop greenhouses to extend the growing season.

Enterprises include organic vegetables, herbs, annual and perennial plants, grains and hay, eggs, grass-fed sheep for meat and fiber, grass-fed beef, farm equipment repair, cordwood, honey, and fresh and dried flowers. Most of the farmers collectively market their products together as the Lampson Brook Farms Cooperative, Inc. They share a farmstand on the site and collectively participate in high value farmers markets, including in the Boston area. Future plans include reviving a CSA operation, and operating a dairy farm and seed processing and cleaning enterprise. Current land lease fees run \$30 - \$80 per acre for cropland and \$15 - \$30 per acre for pastureland.

NESFI and its farm partners meet to work out many of the challenges inherent in landlord-tenant agreements. Together, they have established stewardship standards for leasehold management, and continue to work on issues related to shared and abutting uses.

In addition to a small lease fee to the state, NESFI provides services in the way of land management,

capital improvements, and a wide and expanding range of public education and farmer training programs available to anyone. NESFI also participates in numerous collaborations that foster a vigorous regional small farm sector. For example, NESFI hosts the Growing New Farmers Project (www.northeastnewfarmer.org) and the Northeast Sustainable Agriculture Working Group (NESAWG; visit www.nesawg.org.) It promotes supportive public policies, sponsors farmer-driven research projects and provides professional training to the farming services community. NESFI is supported by foundation grants, government contracts and site use and program fees. For more information, visit the NESFI website, www.smallfarm.org.

Linking Programs Connect Farmers with Land, Farmers and More

by Deb Heleba

For many new and relocating farmers, finding an appropriate site on which to farm can be a challenge. In fact, the Northeast Growing New Farmer project, headquartered out of the New England Small Farm Institute in Belchertown, Massachusetts, has identified access to farmland as a primary barrier to starting a successful farm.

Although word-of-mouth and advertising in publications like The Natural Farmer are excellent and effective ways to find farmland, many farm seekers need an extra boost in locating their future farm. Enter the linking programs.

Farm or land linking programs got their start in the mid-west, following the 80's farm crisis when farmers and service providers were seeing farmers leaving the land and were unsure about agriculture's next generation. The Center for Rural Affairs in Walthill, Nebraska established "Land Link" as a way to encourage new farmers to enter farming. Now, there are eighteen linking programs across the country, including those in Massachusetts (covering MA, CT, NH and RI), Maine, New Jersey, New York, Pennsylvania, and Vermont.

Central to all farm/land linking programs is a matching component that makes connections among farm seekers and farmland owners. At Land Link Vermont, we do this through a matching service where participants complete an enrollment form that describes goals, farming experience, and farm transfer needs. More than 200 individuals and families are currently enrolled in the program, with three times as many farm seekers enrolled as owners. Farm seekers have a diversity of farming interests—45% are looking for dairy farms, 37% are seeking vegetable operations, and the rest are looking for farmland for sheep, beef, goat, herb, and other types of farming enterprises. About half of the seekers in Land Link Vermont are looking for organic acres on which to farm, and about a third are interested in using management-intensive grazing on their farm businesses.

photo courtesy Deb Haleba

Heidi Eames and Mitch Hunt, who are now farming at Cedar Hill Farm.

Both seekers and owners alike are looking at a range of tenure arrangements from a standard purchase-and-sale agreement and leasing, to "work-in" arrangements where a seeker may work for an owner in exchange to gaining equity in the business. Exploring alternative tenure options is crucial in creating opportunities for the next generation of farmers. In Vermont, like the rest of the Northeast, land prices are steadily rising and development is reducing the amount of available farmland, so finding affordable farms to buy can be a serious challenge. And given the high start-up cost for some farm businesses, purchasing a farm is simply not the best first step in starting an agricultural business.

Making successful matches is extremely rewarding but can be challenging. Sometimes the challenge lies in the diversity of enterprises in which seekers are looking. For example, the majority of farmland owners enrolled in our program have dairy farms, with far too many acres for a seeker looking to start a vegetable business. Location is another challenge—seekers with vegetable and other direct-market enterprises are often looking to locate close to populated areas. Unfortunately, these same areas are also in high demand by the general public for the residential market. On the other hand, dairy seekers are often looking for locations where dairy infrastructure and support is strong, like Franklin County, our largest dairy county. In this case, the competition for land is so strong among other farmers (for expanding farm families, or for expanding dairy farms), few opportunities for new farmers exist there. Another challenge in helping facilitate a successful match can be a lack of preparedness for the transfer among participants, including business and financial planning among farm seekers, and retirement and estate planning among farm owners.

photo courtesy Deb Haleba

Cedar Hill Farm in Pownal, Vermont

So, while all of the linking programs have come to realize that the matching component is important, we know that mere matching is not sufficient to create successful links among participants. Education and support are critical for success. Therefore, these services are also provided by the linking programs. The range of services varies from program to program, but we all recognize the importance of preparing both generations for the transition.

Through publications and on-going workshops, Land Link Vermont provides farmers, land owners and agriculture professionals with links to education on farm start-up and farm succession issues. Topics addressed thus far include: estate and retirement planning, effective leases, farm financing, business planning, financial literacy, and direct marketing. Most of our educational programming is done in collaboration with other organizations. For example, this past Fall, Land Link Vermont, NOFA-Vermont, and the Vermont Pasture Network Program co-sponsored a "Becoming a Farm Mentor" workshop. And coming this spring, Land Link Vermont will be offering "Transferring the Farm" workshops across New England, in collaboration with Maine Farm Link, New England Land Link and several Extension Systems around the region.

In addition to linking farmers with land and educational resources, Land Link Vermont also helps link farmers and landowners to professionals and Vermont agricultural organizations through consultation and referrals. Because no two farms and no two farm families are exactly alike, addressing individual needs is critical to success. Through collaboration with existing agencies and programs, Land Link Vermont helps connect farmers to a wide variety of expertise on business management, legal issues, agricultural production, retirement and estate planning, and marketing.

One example of a farm family that utilized the full range of Land Link Vermont services is Mitch Hunt and Heidi Eames. Together with their friends Brian and Jenna Hsiang, Mitch and Heidi are now leasing Cedar Hill Farm in Pownal, Vermont. Mitch and Heidi had worked on several farms before they enrolled in the matching service in 2000. They attended one of our financial workshops, where they met Bob Parsons, an Extension farm business management specialist who assisted them with their financial plan. Through referrals, they met an attorney who helped Heidi and Mitch negotiate a lease agreement with which all parties were happy.

Cedar Hill Farm owner Sally Mole sums up what makes working at farm linking programs so fun and rewarding. "Success," she said, "is having these guys on the farm…These young farmers are really making a big difference in strengthening agriculture here—it's neat to see."

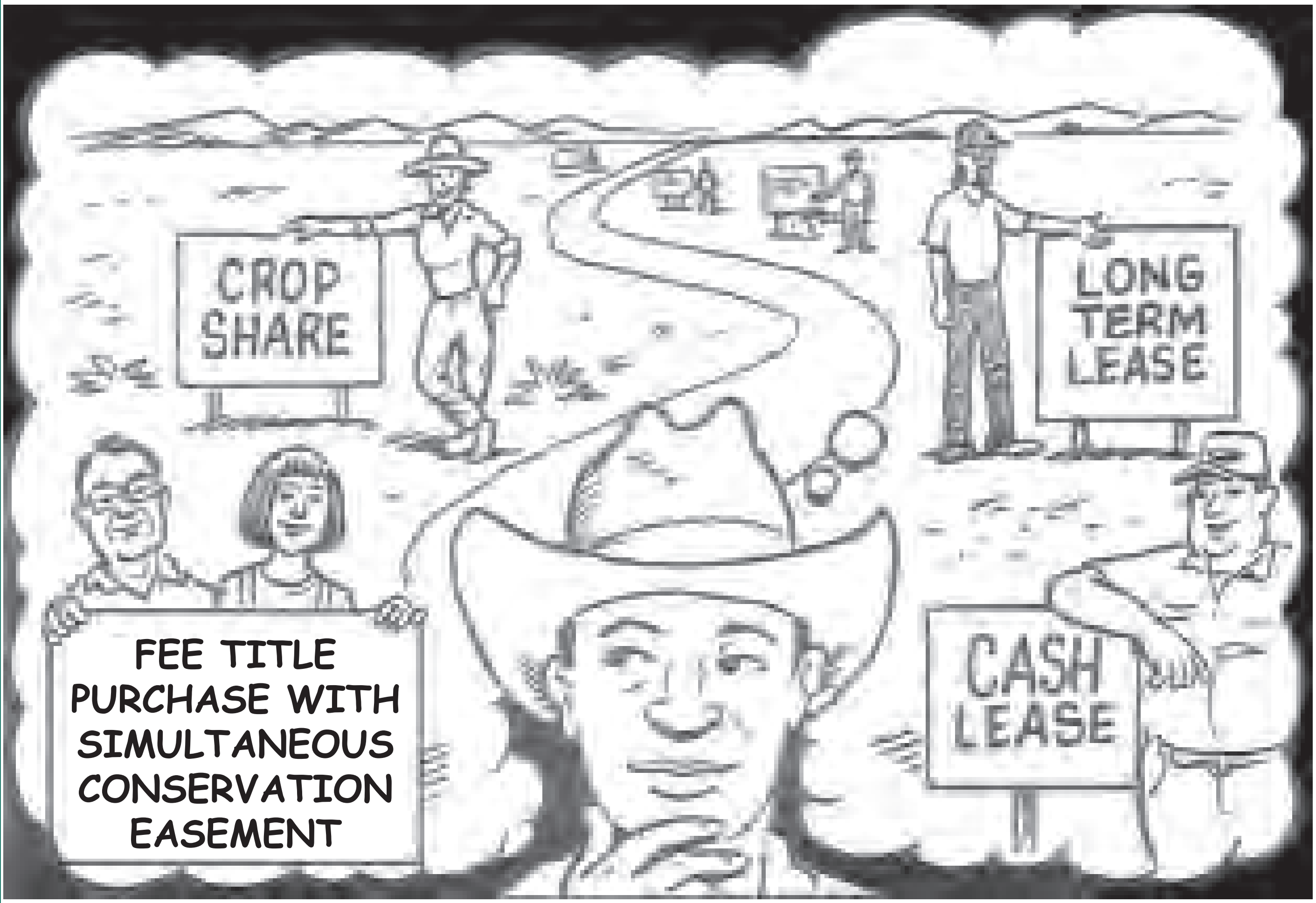
For a farm / land link program in your area, contact one of the following programs.

- Land Link Vermont, Deb Heleba, (802) 656-0233, debra.heleba@uvm.edu, www.uvm.edu/landlinkvt
- Maine FarmLink, Susie O'Keefee, (207) 382-3255, susie@mainefarmlink.org, www.state.me.us/agriculture/mpd/farmlink/
- New England Land Link, Kathy Ruhf, (413) 323-4531, kruhf@smallfarm.org, www.smallfarm.org/nell/nell.html
- New Jersey Farm Link Program, David Kimmel, (609) 984-2504, david.kimmel@ag.state.nj.us, www.state.nj.us/agriculture/sadc/farmlink.htm
- New York FarmLink, Steve Richards, (800) 547-3276, info@farmlink.org, www.nyfarmlink.org
- Pennsylvania Farm Link, Marion Bowlan, (717) 664-7077, pafarmlink@redrose.net, www.pafarmlink.org

Deb Heleba coordinates Land Link Vermont, a program of the University of Vermont Center for Sustainable Agriculture. To contact Deb, please call 802-656-0233 or email debra.heleba@uvm.edu. The Land Link Vermont website can be found at www.uvm.edu/landlinkvt.

FINDING LAND TO FARM

Six Ways to Secure Farmland



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Various Agreements for Leasing and Owning Land

This publication highlights some common ways to lease or own land. It outlines important considerations about each of these leasing options and paths to ownership.

Renting farmland is a common practice in U.S. agriculture, where more than 45 percent of the 917 million farmland acres are rented. According to the 1999 Agricultural Economics and Land Ownership Survey, 60 percent of farmland rent is paid in cash, 24 percent in shares of production, and 11 percent in a cash/share combination. Following are short descriptions of the various leasing and ownership options covered in this publication.

Cash Lease

Most cash leases are short-term, requiring little commitment from either landowner or tenant farmer. Long-term leases can be an affordable way for farmers to use more sustainable practices and to invest more in their businesses. Many leases are based on a handshake. Verbal agreements are considered legal leases for one year, but this is NOT recommendable for either party, as conflicts can arise even among friends when terms are not clearly stated on outset. A written lease provides benefits and security for both parties.

Crop Share

In this model, rent payment consists of part of the crop, most often paid as part of the income from total crop sold. Also known as "share-crop" and "share lease," this was historically disadvantageous to tenant farmers, but can work well for beginning farmers without start-up capital. Crop share arrangements are common in perennial crops and some commodities, for example fruit and nut operations, hay, field crops, processing tomatoes. Agreements may have maximum and minimum limits to protect the farmer and landowner, respectively.

Long-Term Lease

This model is as close to ownership as a lease can get. The term is usually 40 to 99 years depending on state law. This is longer than the average mortgage. These types of leases may even be inheritable. They are used for publicly owned land and commercial real estate, but are less common in agriculture. They are sometimes used by cities and land trusts who own the land but wish to guarantee farmers lifetime tenure. Because of their longevity, the intent and clauses of leases must be very carefully drafted so they will last as long as the lease term.

Lease with Option to Buy or Right of First Refusal

There are two ways a lease can improve ownership opportunities for a tenant farmer:

• With a **"Purchase Option,"** the owner and tenant pre-determine the purchase price, with a date for execution of the purchase. The tenant pays for this option up front, and the rent money can count toward an initial down payment.

• With a **"Right of First Refusal"** clause, the owner can only sell the land to a third party after the tenant has had a chance to "refuse," by matching that third-party offer and making the purchase first. This helps ensure that an owner doesn't sell the land "out from under" the tenant, but the tenant must be ready to act quickly.

Fee Title Purchase with Seller Financing

In this model the new buyer takes possession of the land and makes payments directly to the seller, as written in a "note." This works very well when a good relationship has been established. The landowner can see the property transferred to a promising new farmer, and the new farmer can secure that note—sometimes by virtue of his or her "character" more than conventional lending requirements. Even better, brokerage fees are avoided by both parties. Payments can be structured like a typical mortgage, or in the case of an installment or land contract sale, made periodically. This strategy is often a good way to transfer land to the next generation within a family.

Fee Title Purchase with Agricultural Conservation Easement

An agricultural conservation easement forever extinguishes development rights on that land, making it less valuable to nonfarmers. These types of easements are used if a landowner wishes to see the land remain available for agriculture: He or she donates or sells the land's development rights in the form of an agricultural conservation easement to a nonprofit land trust or government agency, which ensures that the easement goals are upheld forever. This can drop the after-easement value, or "easement encumbered value," of the land into an affordable price range for a new farmer.

FINDING LAND TO FARM
Six Ways to Secure Farmland


HOW ABOUT A BARN or TRACTOR? AND DOES THE LAND FLOOD?
AND HOW CLOSE IS YOUR FARM TO MARKETS FOR YOUR PRODUCT?
• ACREAGE
• SOIL QUALITY
• DRAINAGE
• WATER ACCESS
• INFRASTRUCTURE and EQUIPMENT
• PROXIMITY TO MARKETS
THESE ARE ALL THINGS TO CONSIDER
WOW, SAMUEL, YOU'RE RIGHT. THERE IS A LOT TO THINK ABOUT WHEN LOOKING FOR A NEW PIECE OF LAND TO FARM. NOW I KNOW THE RIGHT QUESTIONS TO ASK.
BUT HOW CAN I MAKE SURE I DON'T LOSE MY LAND AGAIN?
YOU KNOW I HAVE A CASH LEASE LIKE YOU DID, BUT I HAVE A WRITTEN AGREEMENT FOR 5 YEARS
THAT'S WHAT I NEED!
NOT SO FAST! CASH LEASE IS JUST ONE OPTION. IT WORKS FOR ME BECAUSE OF MY SITUATION
WHAT DO YOU MEAN?

CASH LEASE AGREEMENTS

- ◇ VARIABLE DURATION
  - SHORT TERM LEASES ALLOW "TRIAL PERIOD" FOR BOTH LANDOWNER AND FARMER
  - LONG TERM LEASES ARE PREDICTABLE FOR THE OWNER AND SECURE FOR THE FARMER
- ◇ PAYMENT SCHEDULE NEGOTIABLE
- ◇ FARMER & LANDOWNER KNOW HOW MUCH THE RENT WILL BE

DISADVANTAGES (IF LEASE IS SHORT)

- ◇ DIFFICULT TO MAKE LONG-TERM DECISIONS AND INVESTMENTS
- ◇ LENDERS MAY BALK AT FINANCING IMPROVEMENTS
- ◇ LESS INCENTIVE TO USE SUSTAINABLE PRACTICES TO IMPROVE THE SOIL
- ◇ NO EQUITY IS BUILT UP (SHORT OR LONG LEASE)
- ◇ LANDOWNER DOESN'T SHARE RISK IF FARMER HAS A POOR CROP OR CROP HASN'T COME IN YET


WHAT IF PRICES ARE REALLY HIGH?
CROP SHARE LEASE
◊ RENT PAYMENT CONSISTS OF PART OF THE CROP, MOST OFTEN PAID AS PART OF THE INCOME FROM TOTAL CROP SOLD BUT CAN ALSO BE CALCULATED AS A PORTION OF NET INCOME AFTER EXPENSES. PAYMENT IS USUALLY NOT REQUIRED UNTIL CROP COMES IN.
◊ RISK IS SHARED BETWEEN PARTIES.
◊ THIS KIND OF LEASE IS HISTORICALLY DISADVANTAGEOUS TO TENANT FARMERS, BUT MAY BE A GOOD OPTION FOR BEGINNING FARMERS WITHOUT START-UP CAPITAL.
◊ IT CAN BE HARD TO BUDGET FOR AN EXACT RENT AMOUNT. NEITHER PARTY KNOWS WHAT A FARM WILL YIELD, SO PAYMENT AMOUNTS ARE UNCERTAIN. OWNERS DON'T WANT THE RENT TO BE TOO LOW. TENANTS DON'T WANT IT TO BE TOO HIGH.
◊ IF THE TENANT FARMER DOES VERY WELL, THE CROP SHARE RENT MAY EXCEED LOCAL CASH-LEASE RATES.
YOU MAY WISH TO INCLUDE A "MAXIMUM PAYMENT CLAUSE," WHICH WOULD PROTECT THE TENANT AGAINST PAYING TOO MUCH FOR RENT.
◊ CONVERSELY, A "MINIMUM PAYMENT CLAUSE" WOULD PROTECT THE LANDOWNER FROM RECEIVING TOO LITTLE PAYMENT (FOR EXAMPLE, IN CASE OF CROP FAILURE BY TENANT), BUT SHOULD REFLECT THE "SHARED RISK" BETWEEN THE LANDLORD AND TENANT.

*C.S.A. = COMMUNITY SUPPORTED AGRICULTURE


I'M NO EXPERT, BUT I THINK THEY SOLD DEVELOPMENT RIGHTS ON THE LAND TO A LAND TRUST AND USED THE MONEY TO HELP WITH THE PURCHASE – LET'S GO ASK MY FRIEND, MR. GREEN
PEDRO AND JOE VISIT MR. GREEN WHO IS A MIDDLE-AGED FARMER THAT WANTED TO FINANCE THE TRANSITION OF HIS LAND (100 ACRES) TO HIS DAUGHTER, BUT ALSO NEEDED SOME $$ TO HELP WITH RETIREMENT. MR. GREEN'S BROTHER, A CO-OWNER, HAD BEEN THREATENING TO FORCE THE SALE OF THE LAND TO A DEVELOPER – HE WANTED HIS MONEY. A LOCAL LAND TRUST PURCHASED A CONSERVATION EASEMENT, PROVIDING THE MONEY FOR THE FATHER TO BUY OUT THE BROTHER.
NICE TO MEET YOU PEDRO. THIS IS MY DAUGHTER,
PEDRO WOULD LIKE TO HEAR ABOUT HOW YOU USED CONSERVATION EASEMENTS WHEN YOU BOUGHT OUT YOUR BROTHER'S INTEREST IN YOUR FARM!
WELL, WE HAVE TO GO BACK A FEW MONTHS TO A MEETING WITH MY BROTHER AND DAUGHTER.
I DON'T WANT TO FARM, AND I'M NOT GETTING ENOUGH FINANCIAL BENEFIT FROM THIS LAND... AS HALF OWNER, I WANT TO SELL.
MAYBE, ROBERT, GIVE US A LITTLE TIME TO SEE IF WE CAN GET A LOAN TO BUY YOU OUT OR SOMETHING.
MY DAUGHTER AND I MET WITH AN ADVISOR AT THE LOCAL LAND TRUST
I THINK WE COULD ARRANGE TO PURCHASE A CONSERVATION EASEMENT ON YOUR PROPERTY, AND YOU MIGHT BE ABLE TO USE THAT MONEY TO BUY A HALF SHARE OF THE FARM FROM YOUR BROTHER, MR. GREEN
DAD, I THINK THIS WILL WORK. I CAN BUY THE FARM FROM YOU AND MY PAYMENTS WILL BE YOUR RETIREMENT INCOME.
FARMWELL Land Trust
YEAH, THAT MIGHT WORK!

FEE TITLE PURCHASE WITH AGRICULTURAL CONSERVATION EASEMENT

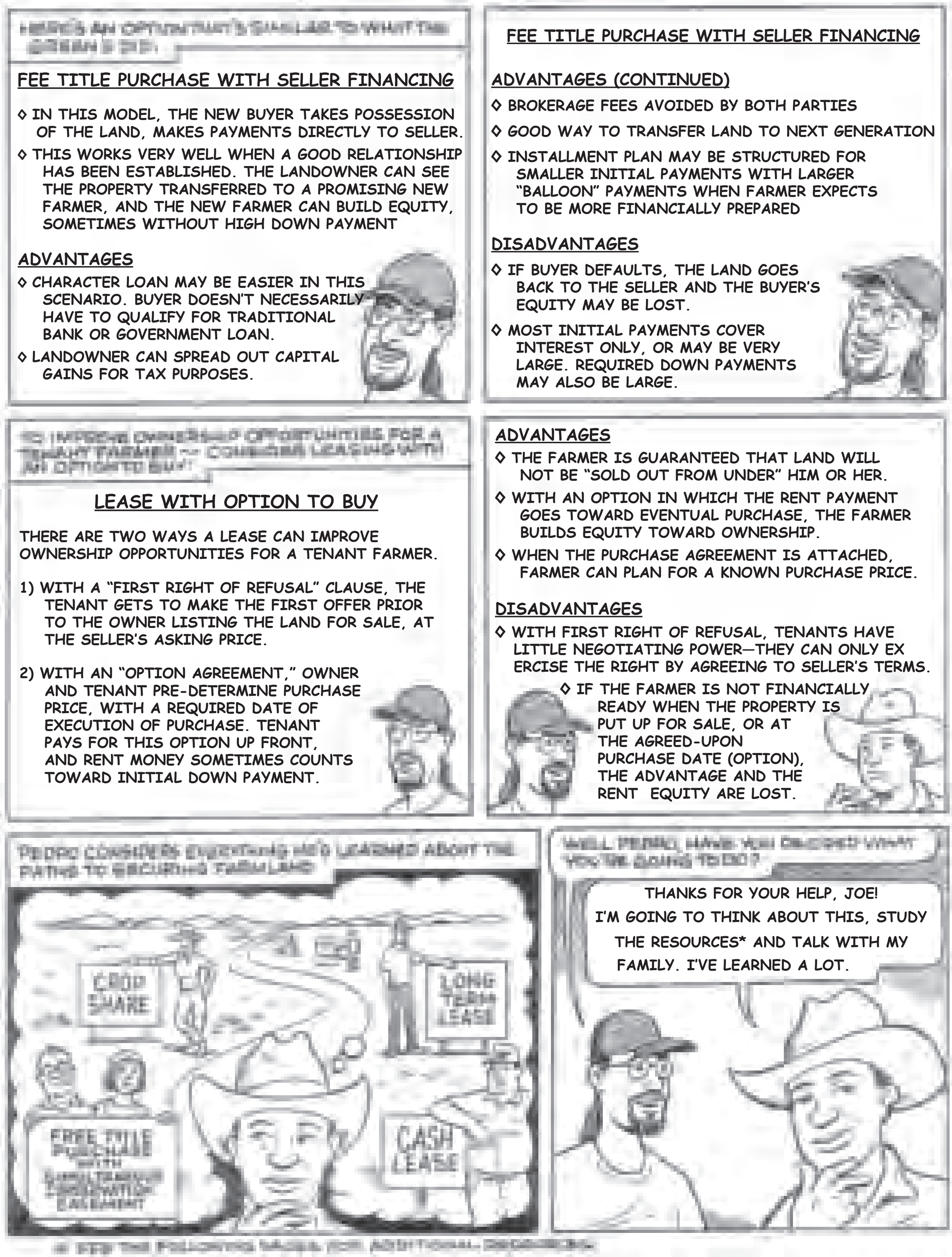
- ◊ THE USE OF THE PROPERTY (THE DEVELOPMENT RIGHTS) IS RESTRICTED BY THE TERMS OF THE CONSERVATION EASEMENT AND THOSE RESTRICTIONS APPLY TO ALL FUTURE OWNERS OF THE PROPERTY
- ◊ THE DEVELOPMENT RIGHTS (IN THE FORM OF A CONSERVATION EASEMENT) ARE DONATED OR SOLD TO A NONPROFIT LAND TRUST OR GOVERNMENT AGENCY WHICH HOLDS THE EASEMENT AND ENSURES IT IS UPHELD.

THE AFTER-EASEMENT VALUE (OR EASEMENT-ENCUMBERED VALUE) OF THE LAND MAY DROP THE PRICE INTO AN AFFORDABLE RANGE FOR A NEW FARMER. THIS CAN OCCUR IN SEVERAL WAYS:

- ◊ THE LANDOWNER COULD SELL THE EASEMENT FIRST, THEN SELL THE ENCUMBERED LAND TO A NEW FARMER.
- ◊ THE NEW FARMER COULD PARTNER WITH A LAND TRUST TO MAKE A JOINT PURCHASE OFFER TO THE LANDOWNER. (OCCASIONALLY A LAND TRUST BUYS FIRST, THEN SELLS TO A FARMER THROUGH A BIDDING PROCESS)
- ◊ THE NEW FARMER COULD CREATIVELY FINANCE LAND PURCHASE, WITH A COMMITMENT BY THE LAND TRUST TO PURCHASE THE EASEMENT IN FUTURE.

FEE TITLE PURCHASE WITH AGRICULTURAL CONSERVATION EASEMENT

- ◊ FARMERS SEEKING TO BUY LAND HAVE A BETTER CHANCE WHEN THEY'RE NOT BIDDING ON RESIDENTIAL OR RANCHETTE REAL ESTATE VALUE. EASEMENTS CAN MAKE THE DIFFERENCE BETWEEN AFFORDABLE OWNERSHIP AND LIFELONG LEASING.
- ◊ SELLERS CAN SEE THEIR AGRICULTURAL LEGACY CONTINUED. WITH TAX BENEFITS, THEY CAN SOMETIMES RECEIVE CLOSE TO FAIR MARKET VALUE FOR THE LAND.
- ◊ BECAUSE EASEMENTS RESTRICT PROPERTY RIGHTS, THEY MAY LIMIT VALUES OR OWNERS' ABILITY TO GET FINANCING.
- ◊ AGRICULTURAL CONSERVATION EASEMENTS DON'T ALWAYS WORK AS INTENDED. THESE EASEMENT-ENCUMBERED PROPERTIES OFTEN STILL HAVE HIGH RURAL-ESTATE HOME VALUE TO NON-FARMERS.
- ◊ PROCESS CAN BE SLOW, SINCE LAND TRUSTS USUALLY HAVE TO APPLY FOR FUNDING TO PURCHASE EASEMENTS.
- ◊ EASEMENTS ARE, IN THEORY, FOREVER. THIS PRESENTS CHALLENGES TO CURRENT AND FUTURE LANDOWNERS AS TO COMPLIANCE AND FUTURE ENFORCEABILITY OF EASEMENTS.


FEE TITLE PURCHASE WITH SELLER FINANCING
◊ IN THIS MODEL, THE NEW BUYER TAKES POSSESSION OF THE LAND, MAKES PAYMENTS DIRECTLY TO SELLER.
◊ THIS WORKS VERY WELL WHEN A GOOD RELATIONSHIP HAS BEEN ESTABLISHED. THE LANDOWNER CAN SEE THE PROPERTY TRANSFERRED TO A PROMISING NEW FARMER, AND THE NEW FARMER CAN BUILD EQUITY, SOMETIMES WITHOUT HIGH DOWN PAYMENT
ADVANTAGES
◊ CHARACTER LOAN MAY BE EASIER IN THIS SCENARIO. BUYER DOESN'T NECESSARILY HAVE TO QUALIFY FOR TRADITIONAL BANK OR GOVERNMENT LOAN.
◊ LANDOWNER CAN SPREAD OUT CAPITAL GAINS FOR TAX PURPOSES.
FEE TITLE PURCHASE WITH SELLER FINANCING
ADVANTAGES (CONTINUED)
◊ BROKERAGE FEES AVOIDED BY BOTH PARTIES
◊ GOOD WAY TO TRANSFER LAND TO NEXT GENERATION
◊ INSTALLMENT PLAN MAY BE STRUCTURED FOR SMALLER INITIAL PAYMENTS WITH LARGER "BALLOON" PAYMENTS WHEN FARMER EXPECTS TO BE MORE FINANCIALLY PREPARED
DISADVANTAGES
◊ IF BUYER DEFAULTS, THE LAND GOES BACK TO THE SELLER AND THE BUYER'S EQUITY MAY BE LOST.
◊ MOST INITIAL PAYMENTS COVER INTEREST ONLY, OR MAY BE VERY LARGE. REQUIRED DOWN PAYMENTS MAY ALSO BE LARGE.
LEASE WITH OPTION TO BUY
THERE ARE TWO WAYS A LEASE CAN IMPROVE OWNERSHIP OPPORTUNITIES FOR A TENANT FARMER.
1) WITH A "FIRST RIGHT OF REFUSAL" CLAUSE, THE TENANT GETS TO MAKE THE FIRST OFFER PRIOR TO THE OWNER LISTING THE LAND FOR SALE, AT THE SELLER'S ASKING PRICE.
2) WITH AN "OPTION AGREEMENT," OWNER AND TENANT PRE-DETERMINE PURCHASE PRICE, WITH A REQUIRED DATE OF EXECUTION OF PURCHASE. TENANT PAYS FOR THIS OPTION UP FRONT, AND RENT MONEY SOMETIMES COUNTS TOWARD INITIAL DOWN PAYMENT.
ADVANTAGES
◊ THE FARMER IS GUARANTEED THAT LAND WILL NOT BE "SOLD OUT FROM UNDER" HIM OR HER.
◊ WITH AN OPTION IN WHICH THE RENT PAYMENT GOES TOWARD EVENTUAL PURCHASE, THE FARMER BUILDS EQUITY TOWARD OWNERSHIP.
◊ WHEN THE PURCHASE AGREEMENT IS ATTACHED, FARMER CAN PLAN FOR A KNOWN PURCHASE PRICE.
DISADVANTAGES
◊ WITH FIRST RIGHT OF REFUSAL, TENANTS HAVE LITTLE NEGOTIATING POWER—THEY CAN ONLY EX ERCISE THE RIGHT BY AGREEING TO SELLER'S TERMS.
◊ IF THE FARMER IS NOT FINANCIALLY READY WHEN THE PROPERTY IS PUT UP FOR SALE, OR AT THE AGREED-UPON PURCHASE DATE (OPTION), THE ADVANTAGE AND THE RENT EQUITY ARE LOST.
CROP SHARE
LONG TERM LEASE
CASH LEASE
THANKS FOR YOUR HELP, JOE!
I'M GOING TO THINK ABOUT THIS, STUDY THE RESOURCES* AND TALK WITH MY FAMILY. I'VE LEARNED A LOT.

Resources for Farmers Seeking Land Tenure

Publications and Web Resources

Farmers for the Future is an internet resource for beginning farmers which can be found on the Farm Credit System-sponsored "Agriculture Online" website. It includes featured profiles of farmers, articles about farm transitions and beginning farmers who have "made it," and a list of links for beginning farmers. *www.agriculture.com/ag/category.jhtml?categoryid=/templatedata/ag/category/data/agfuturechannel.xml*

A Farmers' Guide to Securing Land, by California FarmLink, 2008, provides tools and examples to help landowners, farmers and service providers keep farmland in viable agriculture. The book includes an overview of farmland tenure in the U.S.—who owns and operates American farmland—and some of the challenges to keeping land in the hands of farmers. Each chapter describes a land tenure "model" such as lease, partnership or ownership. These are explained by real case studies collected by California FarmLink staff and associates. The book includes a CD-ROM that contains many of the actual lease, partnership or purchase documents used in these examples. *www.californiafarmlink.org*

Holding Ground: A Guide to Northeast Farmland Tenure and Stewardship. Kathy Ruhf, Annette Higby, Andrea Woloschuk and others. 2004. Belchertown, Mass. The New England Small Farm Institute and Intervale Foundation (see "Organizations" section for more information on each of these). This publication addresses farmland access, transfer, affordability and stewardship. It focuses on "non-ownership" tenure options and contains sample lease provisions with explanations, sample stewardship standards, worksheets, and case studies. $30.00; 162 pages, paperback.

Minority Landowner is a monthly periodical featuring articles and information specifically targeting minority landowners in the southeastern United States and addressing the issues they face. Contact Victor L. Harris at 919-215-1632 or *ccpublishing@earthlink.net*

National Farm Transition Network supports programs that foster the next generation of farmers and ranchers. Below is a list of linking programs, which work with the NFTN. **Value-Added and Alternative Agriculture Tool Kit**, from the NCSU College of Agriculture and Life Sciences, provides an overview and on-line references. *www.ncvalueadded.org/business-management.html*

Organizations

New England Small Farm Institute's mission is to promote small farm development by providing information and training for aspiring, beginning and transitioning farmers. NESFI maintains an extensive resource collection, produces publications, develops and offers innovative farmer-guided programs, and advocates for policies that encourage sustainable small-scale agriculture.
275 Jackson St., Belchertown, MA 01007
413-323-4531; 413-323-9594 (fax)
info@smallfarm.org; www.smallfarm.org

The Intervale Center of Burlington, VT supports financially viable and environmentally sustainable agriculture. Its mission is to develop farm- and land-based enterprises that generate economic and social opportunity while protecting natural resources. The **Intervale Farms Program** creates opportunities for new farmers by leasing land and facilities to small organic enterprises. The program provides technical support and networking among other more experienced farmers. The **Success on Farms Program** works one on one with farmers throughout Vermont to help strengthen their businesses through increased revenues, more effective marketing, consideration of processing value-added products at the farm, and other strategies.
180 Intervale Road, Burlington, VT 05401
802-660-0440; *www.intervale.org*

Land For Good's mission is to keep New England's productive land cared for and in active use for the benefit of the owners, the land and the community. This New England nonprofit helps families and organizations plan for, manage and pass on working lands. The group fosters professional and community networks, public awareness and policies to keep New England's working lands working. Land For Good offers assistance with farm transfer planning, leases and other land use agreements, farm design and land planning, and conservation development.
29 Center Street, Keene, NH 03431
603-357-1600
info@landforgood.org; *www.landforgood.org*

American Society of Farm Managers and Rural Appraisers is a nationwide organization for professionals who provide management, valuation, and consulting services on agricultural and rural assets. The California Chapter publishes *Trends in Agricultural Land and Lease*

Values, an excellent guide to farm-land values. The Society was formed in 1929.
950 South Cherry Street, Suite 508
Denver, CO 80246-2664
303-758-0190
info@asfmra.org; www.asfmra.com

USDA Farm Service Agency (FSA) offers two financing programs for land purchase which especially benefit beginning and socially disadvantaged farmers. The new Farm Bill provides for the Land Contract Guarantee Program and the Direct Farm Ownership Loan Program. Because traditional methods of farm entry and farm succession are no longer adequate to meet current challenges, the agency also offers the Beginning Farmer and Rancher Land Contract Guarantee Pilot Program. This pilot program will explore whether land contract sales are a viable alternative for facilitating land transfers to beginning farmers and ranchers. The pilot program will be available in Indiana, North Dakota, Oregon, Pennsylvania, Wisconsin, and Iowa. Contact the local Farm Service Agency office.
www.fsa.usda.gov

American Farmland Trust, founded in 1980 by a group of farmers and conservationists concerned about the rapid loss of the nation's farmland to development, is a nonprofit membership organization dedicated to protecting our nation's strategic agricultural resources. The trust provides legislative updates, conferences and e-news.
1200 18th Street, NW, Suite 800
Washington, D.C. 20036
202-659-8339
info@farmland.org; www.farmland.org

Equity Trust is a small, national nonprofit organization committed to changing the spirit and character of our material relationships. The Trust helps communities gain ownership interests in their food, land, and housing. The group works with people to make economic changes that balance the needs of individuals with the needs of the community, the earth, and future generations. Equity Trust offers land tenure counseling, financing, and land stewardship services.
PO Box 746 , Turners Falls, MA 01376
Phone: 413-863-9038
Fax: 413-863-9082
info@equitytrust.org; *www.equitytrust.org*

Black Farmers and Agriculturalists Association was created to respond to the issues and concerns of Black farmers in the U.S. and abroad. The group is concerned with advocacy at the national level, as well as support for the local Black farming community.
P.O Box 61, Tillery, NC 27887
252-826-2800
info@bfaa-us.org; www.bfaa-us.org

Agriculture and Land-Based Training Association (ALBA) provides educational and business opportunities for farmworkers and aspiring farmers to grow and sell crops grown on two organic farms in Monterey County, California. ALBA provides educational and economic opportunities for limited-resource, aspiring and immigrant farmers.
P.O. Box 6264, Salinas, California 93912
831-758-1469, 831-758-3665 fax
www.albafarmers.org

Land Loss Prevention Project is dedicated to land retention and environmental justice by providing training and legal support. The organization is dedicated to the preservation of the family farm. The project was founded in 1982 by the North Carolina Association of Black Lawyers to curtail epidemic losses of Black-owned land in North Carolina. The organization broadened its mission in 1993 to provide legal support and assistance to all financially distressed and limited-resource farmers and landowners in North Carolina.
P.O. Box 179, Durham, NC 27702
919-682-5969
www.landloss.org

Appalachian Sustainable Agriculture Project supports farmers and rural communities in the mountains of Western North Carolina and the Southern Appalachians by providing education, mentoring, promotion, web resources, and community and policy development.
729 Haywood Rd. #3
Asheville, NC 28806
828-236-1282

FarmLASTS Project seeks to improve how farm and ranch land is acquired, stewarded, and passed on. Team members are drawn from organizations across the U.S. The project's working groups conduct research and education on farmland access, farm succession, and the impact of these arrangements on land use and the environment. In June 2009 the project convened a national conference in Colorado to address these issues. The USDA/CSREES-funded project is directed by staff at the University of Vermont and Land for Good.
Contact Kathy Ruhf, *kzruhf@verizon.net;*
www.farmlasts.org

Land Linking Programs

National Farm Transition Network

The goal of the network is to support programs that foster the next generation of farmers and ranchers. Farm linking organizations develop new transition and tenure strategies for the entry of the next generation and the exit of the existing farmer. Below is a list of linking programs that work with the Network.
Beginning Farmer Center
10861 Douglas Ave., Suite B
Urbandale, Iowa 50322
jrbaker@iastate.edu;
www.farmtransition.org

California

California FarmLink
P.O. Box 2224
Sebastopol, CA 95473
Office: 707.829.1691
Fax: 707.829.1693
Contact: Steve Schwartz
E-mail: *info@californiafarmlink.org*
www.californiafarmlink.org

Connecticut

New England Land Link
P.O. Box 608
Belchertown, MA 01007
Office: 413.323.4531
Fax: 413.323.9594
Contact: Eric Toensmeier
E-mail: *landlink@smallfarm.org*
www.smallfarm.org

Iowa

Farm On – Beginning Farmer Center
Iowa State University Extension
10861 Douglas Avenue, Suite B
Urbandale, IA 50322
Office: 877.BFC.1999
Fax: 515.252.7829
Contact: John Baker
E-mail: *jrbaker@iastate.edu*
www.extension.iastate.edu/bfc

Ag Link
Iowa State University
www.extension.iastate.edu/bfc/Aglink

Iowa State also has links to some very good on-line presentations by previous Ag Link presenters: *www.extension.iastate.edu/bfc/pubs.html*

Maine

Maine Farmlink
97 Main Street
Belfast, ME 04915
Office: 207.338.6575
Fax: 207.338.6024
Contact: Esther LaCognata,
esther@mainefarmlink.org
www.mainefarmlink.org

New England Land Link
P.O. Box 608
Belchertown, MA 01007
Office: 413.323.4531
Fax: 413.323.9594
Contact: Eric Toensmeier
E-mail: *landlink@smallfarm.org*
www.smallfarm.org

Maryland

Eastern Shore Land Conservancy
P.O. Box 169
Queenstown, MD 21658
Office: 410.827.9756
www.eslc.org

Massachusetts

New England Land Link
P.O. Box 608
Belchertown, MA 01007
Office: 413.323.4531
Fax: 413.323.9594
Contact: Eric Toensmeier
E-mail: *landlink@smallfarm.org*
www.smallfarm.org

Michigan

FarmLink
Michigan Farm Bureau
7373 W Saginaw Hwy.
Lansing, MI 48917
Office: 517.323.7000
Toll-free: 888.805.4864
Fax: 517.323.6604
Contact: Matthew Smego,
msmego@mail.michfb.com
www.michiganfarmbureau.com/benefits/farmlink.php

Minnesota

Land Stewardship Project Farm Beginnings
P.O. Box 130
Lewiston, MN 55952
Office: 507.523.3366
Contact: Karen Stettler,
stettler@landstewardshipproject.org
www.landstewardshipproject.org

Montana

Land Link Montana
Community Food & Agriculture Coalition
127 N. Higgins Ave., Suite 305
Missoula, MT 59802
Phone: 406.543.0542
Contact: Paul Hubbard,
pfhubbard@gmail.com
www.landlinkmontana.org

Nebraska

Land Link
Center for Rural Affairs
145 Main St.
PO Box 136
Lyons, NE 68038
Office: 402.687.2100
Fax: 402.687.2200
Contact: Michael Holton
E-mail: *info@cfra.org*
www.cfra.org/issues/become.htm

Beginning Farmer Program
Nebraska Dep't of Agriculture
P.O. Box 94947
Lincoln, NE 68509-4947
Office: 402.471.6890
Toll-free: 800.446.4071
Fax: 402.471.2525
Contact: Marian Beethe,
mbeethe@agr.ne.gov
www.agr.ne.gov — click on "Beginning Farmer"

New Hampshire

New England Land Link
P.O. Box 608
Belchertown, MA 01007
Office: 413.323.4531
Fax: 413.323.9594
Contact: Eric Toensmeier
E-mail: *landlink@smallfarm.org*
www.smallfarm.org

New Jersey

Ag Development Committee
State of New Jersey
PO Box 330
Trenton, NJ 08625-0330
Office: 609.984.2504
Fax: 609.633.2004
Contact: David Kimmel,
david.kimmel@ag.state.nj.us
www.state.nj.us/agriculture/sadc/farmlink.htm

New York

NY FarmLink
c/o NY FarmNet
415 Warren Hall
Ithaca, NY 14853
800-547-FARM
E-mail: *info@farmlink.org*
www.nyfarmlink.org

Ohio

The Farmland Center, a program of the Countryside Conservancy
2179 Everett Road
Peninsula, Ohio 44264
330.657.2538
beth@thefarmlandcenter.org
www.thefarmlandcenter.org
www.cvcountryside.org

Oregon

Friends of Family Farmers manages *ifarmoregon.org,* an online database that allows the user to search for agricultural services, land for sale, land wanted, unique leasing arrangements, partnership options, mentoring and internship programs, educational opportunities and financial resources.
P.O. Box 1286
Molalla, OR, 97038
info@friendsoffamilyfarmers.org
www.ifarmoregon.org

Pennsylvania

Pennsylvania Farm Link, Inc.
PA Dept. of Agriculture
2301 N. Cameron Street, Rm 311
Harrisburg, PA 17110-9408
Office: 717.705.2121
Fax: 717.787.5643
E-mail: *mail@pafarmlink.org*
www.pafarmlink.org

Center for Farm Transitions
Pennsylvania Dept. of Agriculture
2301 North Cameron Street
Harrisburg, PA 17110-9408
Toll-free: 877-475-2686
Contact: D. Robert Davidson
Email: *ddavidso@state.pa.us*
www.iplantofarm.com

Rhode Island

New England Land Link
P.O. Box 608
Belchertown, MA 01007
Office: 413.323.4531
Fax: 413.323.9594
Contact: Eric Toensmeier
E-mail: *landlink@smallfarm.org*
www.smallfarm.org

Vermont

Land Link Vermont
Center for Sustainable Agriculture
Office: 802.656.0233
Fax: 802.656.8874
Contact: Deb Heleba
www.uvm.edu/landlinkvt

New England Land Link
P.O. Box 608
Belchertown, MA 01007
413.323.4531; Fax: 413.323.9594
Contact: Eric Toensmeier
E-mail: *landlink@smallfarm.org*
www.smallfarm.org

Virginia

Virginia FarmLink
Virginia Department of Agriculture and Consumer Services
P.O. Box 1163
Richmond, VA 23218
Office: 804.786.3501
Fax: 804.371.2945
Contact: William P. Dickinson, Jr.,
wdickinson@vdacs.state.va.us
www.savefarms.com/farmlink_about.htm

Virginia Farm Bureau Federation
P.O. Box 27552
Richmond, Virginia 23261-7552
Office: 804.290.1017
Fax: 804.290.1099
Contact: Brock Herzberg,
brock.herzberg@vafb.com
www.vafb.com
and www.savefarms.com

Washington

Washington FarmLink
Cascade Harvest Coalition
4649 Sunnyside Avenue North, Room 123
Seattle, WA 98103
Office: 206.632.0606
Fax: 206.632.1080
Contact: Mary Embleton
E-mail: *mary@oz.net*
www.cascadeharvest.org/programs/washington-farmlink
and www.cascadeharvest.org

Wisconsin

Wisconsin Farm Center
Office: 800.942.2474 or 608.224.5049
Fax: 608.224.5107
Contact: Roger James,
Roger.James@datcp.state.wi.us
www.datcp.state.wi.us/mktg/agriculture/farm-center/transfers/index.jspvvvv

Elements of a Good Lease

This list is from California FarmLink
www.californiafarmlink.org

1. Contact information
Be sure to include information for both landowner and tenant

2. Description of leased property
Include a map if possible.

3. Length of term
How long is lease valid?
Can it be renewed?

4. Rental amount and how it is to be paid
What is the amount per term?
Is it as cash or share rent?
When is it payable?
Are there periodic increases?

5. Maintenance and repairs
Who is responsible?
What are the monetary limits?

6. Liability insurance and indemnification
Is the tenant required to have liability insurance?
Most landowners want to specify that they're not liable for tenant's operation.

7. Use restrictions or requirements
How is the land to be used?
Are there prohibitions or limitations on its use, such as types of crops or production methods, for example?

8. Compliance with law
Most leases reiterate that the tenant must comply with all appropriate laws.

9. Initial condition of premises
Is the property okay as-is?
Are improvements or upgrades required before or during the lease?

10. Alterations
Are there restrictions or allowances concerning changes to the property?
What changes or improvements are allowed, with and without specific permission?

11. Subletting
Are there any restrictions or allowances?
Is tenant allowed to lease to a third party?

12. Dispute resolution
California FarmLink suggests specifying that disputes should be resolved first by mediation, then through binding arbitration.

Kinds of Consultants You May Need

1. Real estate agents
2. Real estate attorneys
3. Cooperative extension and other agricultural business consultants
4. Accountants and CPAs
5. Lenders such as Farm Service Agency (FSA), Farm Credit System, banks, Community Development Financial Institutions (CDFIs), Small Business Development Corporations (SBDCs)

The following discussion of land tenure and financing for Community Supported Agriculture (CSA) was adapted from a chapter prepared by Chuck Matthei of the Equity Trust for ***Farms of Tomorrow Revisited***, edited by Trauger Groh and Steven McFadden (Biodynamic Farming and Gardening Association, 1997). While the article specifically addresses the needs of CSA farms—whose consumers are enrolled as members, purchasing annual 'shares" in the farms' production—much of the information it provides will be relevant to other farms as well. ***For more information***, contact Equity Trust, 539 Beach Pond Road, Voluntown, CT 06384, telephone/fax (860) 376-6174; info@equitytrust.org, or visit our web site at **www.equitytrust.org**

Gaining Ground:
How CSAs Can Acquire, Hold, and Pass On Land

While the first decade of Community Supported Agriculture (CSA) in the United States has been impressive and future prospects look bright, the majority of CSA farmers are still on shaky ground. Many are working borrowed or rented land, without long-term leases; some are trying to purchase land, at market prices far higher than farm income can support; and even those who own land are trying to figure out how to provide for their retirement and their heirs, yet insure the continuation of fanning in future generations.

Secure land tenure and reliable sources of financing are essential for a viable farm operation. Without them, existing farmers face constant uncertainty and have a difficult time making necessary improvements; prospective farmers may not begin at all. Yet the reality is that most CSA farmers will not be able to obtain sufficient financing from conventional sources, and many will need substantial discounts or subsidies in any event

The key to assembling the necessary resources lies in distinguishing the essential personal interests in farm properties from the inherent public interests. Defining and protecting the public interests legitimizes the application of charitable and public funds to a land purchase, thereby assuring affordable access to the farmer. In most cases, this is achieved by establishing a relationship and dividing the property interests between a farmer and a nonprofit land trust, with the land trust serving as steward of the public interest.

The current land tenure problems can be solved, by mobilizing the unique community that Community Supported Agriculture has created. If you are a CSA farmer or member, this article is written especially for you. Working together and reaching out to friends and neighbors, local institutions, land trusts, and even local governments, you can secure your own position and prepare the ground for other farmers as well.

Finding Your Place

Most CSA fanners begin as apprentices and then, in your first years as independent producers, many of you use someone else's land. But eventually each of you will need a secure site in which to invest many years of labor and a substantial amount of capital.

Choose your land carefully, keeping long-term concerns in mind from the outset. Pay more attention to productivity than panoramic views. Learn from the experiences of other farmers, and be realistic about size, soil quality, availability of water, and the various improvements that a successful farm will require. And compare the terms on which various properties are offered to you.

If you are borrowing or renting land, make sure that you have a clearly written and detailed lease agreement. Consider the term or time commitment of a proposed lease, permitted land uses, and the possibility of credit for improvements you might make. Be mindful of the market value of the property and the level of support you might find in that community if you later have to purchase the land to secure your tenure. Whenever you enter into a lease, ask for a right-of-refusal or purchase option in the event that the owner puts the land put up for sale. A right-of-refusal will give you the chance to match the bid of any prospective buyer; an option will actually fix the price (or price formula), and perhaps define the period of time in which you have the right to buy.

If you want to explore the possibility of purchasing rather than leasing, be aware that there are many ways to acquire land at below-market prices. Look for motivated sellers who may be willing to take less than market value to insure that the land they love remains a working farm. Some elderly landowners may respond if you will let them remain in their homes, and perhaps provide some personal services, after the land transfer. Other landowners may be attracted by the tax benefits that come with a 'bargain sale' to a nonprofit land trust organization. (These are usually landowners whose property values have appreciated substantially and who have significant personal income. The difference between the bargain sale price and the fair market value will be considered a charitable gift, and the resulting tax deduction may be spread over several years; the capital gains tax liability will be reduced as well.)

Local clergy, attorneys and investment advisors, sympathetic realtors, and some of your own CSA members may be in a position to know which landowners fit this description. Land trust directors and town officials may also know-and sometimes the land trust, local government, or other institutions may own land themselves that can be made available to you. It is never too soon to meet them and acquaint them with your program. The community-building aspect of Community Supported Agriculture is not limited to the recruitment of members; it involves relationships and credibility throughout the community.

Forming a Relationship with a Land Trust

There are two families of land trusts in this country—***conservation land trusts*** and ***community land trusts***—with significant similarities and differences between them. Typically, they are nonprofit corporations (not legal trusts), locally based and democratically structured. The same legal and financial tools are available to both. They are capable of a variety of tenure arrangements, but each may have customary practices and may be unfamiliar with other models.

Conservation trusts currently number about 1500, with a membership that is primarily middle and upper class. Traditionally, they have been devoted simply to open space preservation and wildlife conservation, but a growing minority now express an interest in active farm and forest lands and a few, like the Vermont Land Trust and the Marin Agricultural Land Trust in California, actually specialize in working lands. Conservation trusts usually hold an easement, or restriction, on farmland, leaving the "fee" interest, or title, in the name of the farmer. The conservation easements are designed to preserve the environmental integrity of the land by limiting development and protecting its critical natural features.

In contrast, there are only 120 community land trusts, and they are primarily located in lower income communities. Most have been established to provide the essential benefits of ownership to those who are excluded from the conventional real estate market. Many are in urban areas and few have farm holdings, but they should be receptive to a CSA proposal.

Community land trusts usually retain title to the land and offer the residents a lifetime, inheritable lease. Lessees may own the improvements on the property, and build equity by their personal investment of capital and labor; however, the lease includes a purchase option and price formula, giving the land trust the right to buy the improvements from a departing farmer and transfer them at a fair price to the next. In this way, community land trusts address the social and economic challenges of conservation as well, keeping farms available and affordable for farmers.

The difference between an individual holding title and a land trust doing so may appear to be quite significant, but in fact may not be as important as it seems. ***The character of the land tenure relationship-'the distribution of rights and responsibilities between the fanner and the land trust-is actually determined by the details of the land use agreements, more than the placement of the title and the types of legal instruments used***.

Despite the growing interest in farmland preservation between both kinds of land trusts, many still have limited experience and the negotiation of terms will be a learning experience for all concerned. The relationship between a fanner and a land trust is a very important and long-lasting one; it may take time and patience to develop. Look at your local land trust's stated purposes and history of program activity, its board of directors and membership, its legal and financial condition and its management systems. Make sure that it is a sincere, competent, active organization-and then make the effort to build an effective working relationship, turning to others for examples and assistance along the way.

It is usually much better to persevere with an existing trust than to try to create a new one for a single purpose or property. The requirements of organizational development and management are often underestimated and, unless the new entity has a sufficiently broad and capable membership, it will have a difficult time fulfilling the responsibilities of genuine land stewardship. If there is no local land trust in your area, or it is simply not possible to work with the existing group at this time, you might utilize a regional or national organization with similar purposes as an interim steward.

Balancing Individual and Community Interests

Most of us are accustomed to regarding property as a legal formulation or a market calculation, but it is more helpful to envision it as a web of relationships. The leases, easements, and other documents used to secure land for CSA farms should carefully define and equitably balance the legitimate interests of all of the involved or affected parties.

There is no single 'right way' to do this, and the law is quite flexible. In most cases, you can strike whatever balance seems fairest to you and your partners. A simple exercise might be useful in making this determination. Do it alone, with your core group of farm members, and with your land trust partner. Don't be intimidated by the legal or financial implications of the exercise; rather, treat it as a creative educational and social experience.

Thinking of the land that you hope to acquire—its natural features, potential uses, and carrying capacities—make a grid. (See figure below.) On one side, list all of the interested parties. They may have different kinds of interests and different levels of interest, but they have some legitimate interest in that land, You will find that they can be grouped into four categories; one or more individuals who personally use the land for residence, farming, or some other purposes; the community in the form of abutting neighbors, local government, and the CSA membership; the land itself, and the plants and animals with which you will share it; and the next generation.

	Environmental	**Social**	**Economic**
Individuals			
Community			
Land & Wildlife			
Next Generation			

The other set of coordinates will be the three dimensions of property: ***environmental, social, and economic***. How should the specific rights and responsibilities in each of these dimensions be distributed among the various interested parties? What land uses should be permitted, required, or prohibited for each? Who should have access, exclusive or shared—and who should participate in governance, in the different kinds of decisions that will be made regarding the land? Who contributes to property value over time, and how should equity be allocated? In all of these areas, think about what you hope to achieve and what else might occur, making provisions for unexpected or even unwelcome contingencies.

With the completed matrix in hand, you will be ready to begin drafting the necessary legal agreements. The resulting documents, in part, will define:

- **WHO:** the parties to the agreement, including the farmer(s), spouse(s), the land trust, and possibly others;
- **WHAT:** the land and resources being allocated to or withheld from each party, including boundary lines) timber, mineral and water rights, and specifications for private use, shared use) and perhaps even some public access;
- **FOR WHAT PURPOSES**: permitted and restricted land uses (residential, agricultural, educational, commercial, etc.) and specific practices;
- **AT WHAT PRICE**: the amount of the lease fee or purchase price, an< the responsibilities for taxes, insurance, maintenance and monitoring;
- **OWNERSHIP AND IMPROVEMENT**: ownership of the land and ownership of the improvements; the right to make additional investments and improvements; and permitted mortgaging;
- **TRANSFER:** occupancy requirements; subleasing; provisions for inheritance; and the land trust's option upon sale;
- **ARBITRATION**: conflict resolution in the event of disagreements between the parties...and more.

Financing the Purchase

The structure of ownership and distribution of property rights will affect the financing possibilities. Remember that charitable or government resources may be used for the acquisition and maintenance of public interests in property, but private property interests must be paid for with private funds.

If you will own the land and a land trust will hold a conservation easement, you will each have to pay your proportionate share of the property value as determined by appraisal. You will pay the restricted "farm value" of the land subject to the terms of the easement; the land trust will pay for the easement. An easement is a real property interest, with a value that is equivalent to the difference between the restricted value and the unrestricted "fair market value" of a property.

On the other hand, if the land will be owned by a land trust and leased to you, it may be acquired by the land trust as a tax-deductible charitable gift, or purchased entirely with gift funds (which you, your farm members, and friends may help the land trust to raise). You will not have to use your personal resources to purchase the property, but you will pay a reasonable lease fee to the land trust for the use of the land over time.

Some CSA farmers have considered restructuring their farms as charitable organizations and a few CSA farms, like Quail Hill Community Farm in Amagansett, NY, are currently operating as programs of nonprofit corporations, with the farmers as employees. But this approach may only be feasible when the organization has a broader array of charitable, educational, or conservation activities. The Internal Revenue Service does not recognize farming, as such) as an exempt activity. In most cases, it will be more appropriate for the CSA program to remain a private enterprise, owned by the farmer or, conceivably, by the members, with the rote of a nonprofit partner limited to stewardship of the public interests in the land.

Before seeking financing for land acquisition, you must formulate a realistic, multi-year business plan that details projected income and expenses, anticipates growth) provides for contingencies, and identifies the amount remaining for debt service. On this basis, you may be able to approach conventional lending institutions for a portion of the purchase price. They will require a down payment They may also ask for co-signers or guarantors of the loan, a role that family and friends may be willing to play (perhaps sharing the risk by limiting the amounts of their individual guaranties).

Some states and municipalities have provided loans or grants to land trusts for farm acquisitions, through established programs or special appropriations. Many towns now realize that the cost of preservation is often less than the cost of servicing the development that otherwise occurs. Local foundations, other institutions, and even businesses have also contributed. It's useful to acquaint yourself with these institutions and programs well in advance of your need for funds. Typically, a financing package comes from multiple sources and includes a combination of gifts and loans (and perhaps even proceeds from the sale of partial interests or portions of the land to other parties).

Institutions are not the only potential source of financing for CSA farms. The members themselves—and their friends end associates'—may be your most important financial resource. They are already interested and involved. Presented with a realistic proposal, they may be quite willing to make charitable gifts and socially responsible investments to secure the farm for future generations and to preserve the character and quality of life of the surrounding community.

Charitable gifts from members and friends can go directly to the land trust. If loan capital is sought, however, many investors may prefer to make their loans through a qualified intermediary such as a community development loan fund. The Equity Trust, Inc., a nonprofit organization with an innovative national program of land reform and community development finance, has established *The Fund for Community Supported Agriculture* for just this purpose. Such intermediaries receive loans and gifts from multiple investors and donors. They aggregate the resources, and provide financing for a variety of projects. Investors benefit because the intermediary assumes the responsibilities of analysis, administration, and monitoring, and offers the greater security of its diversified portfolio, loss reserves, and net worth. Borrowers benefit because they are able to deal with a single lender, one with experience, technical assistance capabilities, and additional capital if needed.

Setting an Example

A growing number of CSA farmers are following the paths outlined above, breaking new ground and enlarging the opportunities for others as they go. Stephen and Gloria Decater had been farming for nearly twenty years—initially as market gardeners and then as Live Power Community Farm, California's oldest continuously operating example of CSA—when they realized in 1991 that they had to purchase the land. Throughout this period, it had generously been made available to them by Richard Wilson, a sympathetic landowner and rancher, who is now also the Director of the California Department of Forestry and Fire Protection. But with the need for substantial investments in the buildings and the eventual prospect of inter-generational transfers, the Decaters felt that the time had come to formally secure their place.

They negotiated a purchase agreement. Like most small farmers, the Decaters couldn't afford to pay the full market value with only farm income. So they turned to their core group of members for assistance and began to explore their options. After two years of research and interviews with farmland preservation groups around the country, they decided together that the Decaters would personally obtain financing for the agricultural value of the property, while members and others made charitable gifts for the purchase of an easement by a land trust.

As they discussed their mutual goals, these fanners and members realized that a conventional conservation easement would not be good enough. In a newsletter report to the general membership, Stephen said:

> ***"Socially and ecologically responsible agriculture also requires socially and economically responsible land ownership. If equity and stewardship of the land are shared by the community and the individual farmer, we can ensure that the land will remain in farming use and permanently affordable to farmers."***

With the help of attorneys and other advisors, they crafted an easement and purchase option for the land trust that not only provides for environmental protection) but requires that the land be continually farmed, by resident fanners, using sustainable methods. It also limits the price, when it transfers from one farmer to the next, to no more than the productive farm value. On this basis, two appraisals were made: the fair market value of Live Power Community Farm was $150,000, but the restricted value of the land, subject to this easement, was only $69,600.

The unusual provisions of the easement substantially increased the amount of charitable funds that could be applied to the purchase of Live Power Community Farm. Covelo, CA, already has large-lot zoning. A conventional conservation easement, restricting development but leaving open the possibility of future sales to estate or second-home buyers, would have had relatively little impact on the appraisal. But dedicating the property to agriculture and limiting the transfer price removed all of the speculative element and made the land affordable for the Decaters and future generations of farmers.

In a remarkable effort, the members and friends of Live Power Community Farm succeeded in raising $90,000. Of this amount, $81,000, representing the difference between the full market value and the "farm value," was applied to the purchase of the easement itself. The balance was used for legal fees, an environmental baseline' study, and other transaction costs. Yet another hurdle remained. The plan required the participation of a nonprofit partner, but there was no land trust in the immediate area and the nearest one, though appreciative of the Decaters' intent, was hesitant to take on the responsibilities this easement entailed.

At this point, the Decaters turned again to the Equity Trust, which had already been a source of advice. The Equity Trust serves community land trusts and conservation projects across the country, and agreed to play a surrogate “land-banking” role by holding the easement until local stewardship became available.

Finally, in May of 1995, the closing took place. As Richard Wilson said at the celebration:

> ***“Along the way, we learned some lessons that may be relevant for others. It takes patience and fortitude. This work is important social reform and it cuts against the grain of existing expectations and arrangements in the marketplace- [But] this farm is a working example of how sustainable agriculture can succeed. It's an important center of education and training. It's the center of a vibrant community that links Covelo to the city and provides the city with a vital contact to the real world of nature and its limits, and it's the home for a wonderful family who are committed to the land and to this Round Valley.”***

Several factors contributed to this achievement. Live Power Community Farm was well established, and the Decaters' personal dedication and abilities were well known. The core group included members with significant legal, financial and fundraising skills, and they were willing to devote a great deal of time. And half of the farm's 140 member families live in San Francisco, one of the most receptive and affluent environments for such an appeal.

Other CSA farms may have more or less difficulty in their own land acquisition and fundraising efforts, but the Live Power experience is not unique. In Hadley, Massachusetts, the Western Massachusetts Food Bank paid off the mortgage on its Food Bank Farm fields in just three years, with charitable gifts. The original price was reduced by the sale of an easement to the Massachusetts Department of Food and Agriculture; the compound of buildings was acquired by a sympathetic philanthropist and leased to the Food Bank and farmers.

Philadelphia Farm, in Osceola, Wisconsin, was also purchased with the help of charitable gifts; Fairview Gardens, in Goleta) California, recently completed its own capital campaign, with the Equity Trust providing intermediary services. In Caledonia, Illinois, Angelic Organics has recruited a group of members to form a holding company and purchase adjoining land, giving the farmer a lease with an option to purchase when he is ready.

Similar principles can be applied to inter-generational transfers as an expression of the owners' dedication, and charitable gift deductions and estate tax benefits may result. Roxbury Farm, in Claverack, New York, has been in the same family for several generations. Two of the current owners' nine children, and one child's spouse, are involved in the CSA operation. After careful consideration and a series of family meetings, the parents decided to transfer the prime agricultural land to the farmers, reserving a small tract of non-agricultural land for each of the other children to enable them to return if they choose, and donating a conservation easement to a local land trust In this way, they met the needs of each family member and fulfilled their common commitment to the land, the farm, and the well-being of the wider community. Now they are working with the land trust, neighboring owners, and prospective farmers on a broader strategy for land conservation and agricultural revitalization in the area.

Seeds for a Future Harvest

CSA farms like these are defining the principles and perfecting the instruments for a more effective approach to agricultural conservation, for farms of every kind. ***The essential element in alt of their stones is the willingness of fanners to balance their own personal interests with the common good and to address all three dimensions of property: environmental) social and economic.*** While most conservation programs throughout the country, both public and private, are still using tools that protect only the land, these CSA farms are setting a higher standard, as they strive to preserve farmland, family farmers, and rural communities as well. They have taken to heart the warning of Aldo Leopold, a half-century ago, ***that "We abuse land because we regard it as a commodity belonging to us," and learned to see it as he described it, "as a community to which we belong."***

Along the way, these CSA farmers and members are educating and inspiring others, discovering allies, and foiling new partnerships. The Vermont Land Trust, a national leader in the conservation field, is now experimenting with 'shared equity' models for family farms, and the Commonwealth of Massachusetts has revised the easements used in its Agricultural Preservation Restriction program to require continuing agricultural use. The quasi-public Vermont Housing and Conservation Board (VHCB) holds a statutory right-of-refusal on any farm that has received property tax considerations or other state subsidies, before it can be sold to a non-farmer and removed from production. VHCB also provides financing to local land trusts through a fund capitalized by legislative appropriations. In pursuit of environmental and social goals, CSA farmers and members can join with a great many others in a combination of individual initiatives, local organizing and institutional development, and public policy reforms.

Significantly, the relevance of these efforts goes well beyond rural America, for land is not only essential to farmers. It is the foundation for virtually all social and economic activity. Some of the same market forces that are keeping prospective farmers from the land affect urban areas as well, where community land trusts in cities large and small are responding to the needs for affordable housing) open space, and facilities for small businesses and human services. In Boston, MA, the Dudley Neighbors CLT is engaged in an ambitious, integrated program combining urban agriculture with residential and commercial development. Land has been allocated for food production and youth employment; a newly created 'neighborhood commons' hosts a weekly farmers market; and planning is underway for construction of a large commercial greenhouse.

In communities of every kind, issues of land use and property rights are fundamental-and they are also controversial. In national, state, and local arenas, they stand at the center of the political stage as the focus of highly polarized debates. Unfortunately, public and private interests are often portrayed as distinct and even antagonistic; arguments are simplistic, and constructive alternatives are lacking. Although we define the word "equity" both as a financial interest in property and as a moral principle of fairness, all too often it seems that the necessary relationship between the two has been forgotten.

"Land reform" may be a foreign concept to most Americans, but our need for it is real and growing. Here and abroad, we are confronted with expanding populations, resources limited by supply or the costs and consequences of extraction, and a universal demand for inclusion. The conclusion is inescapable, even if the path is still unclear. All human beings need food, shelter, meaningful work, and recognition of their importance to the community-and all of these are dependent upon good stewardship and equitable distribution of the land.

With creativity, commitment) and community participation, the CSA farmers of today can provide a legacy of secure, productive, and affordable land for the farmers of tomorrow—and make vital contributions to the larger process of social and economic reform. The ultimate success of Community Supported Agriculture depends upon it and many others will benefit as well. We are facing a formidable challenge, to be sure, but it is also a remarkable opportunity, a practical possibility, and even a sacred trust.

Land Tenure: How to lease, rent, or buy farm land in NY?

The primary hurdle facing Quincy Farm is secure, long-term access to good farm land. Without this, it will be impossible for us to build and maintain the soil health and infrastructure that our farm business depends on. Quincy Farm has developed the experience, finances, and plan to succeed, but we're unwilling to gamble that success on unreliable or short-term tenure.

Soil

The security and viability of an organic farm is dependent on the strength and vitality of its soils. Just as a house rests on the integrity of its foundation, an organic farm rests on the health and resiliency of its living soil. There is a maxim in the organic world to "feed the soil, not the plant." When the soil microbes, funguses, and bacteria are in good health, living in healthy tilth with the right balance of minerals, air, and water, you will have healthy, vigorous, productive plants.

This soil health--and the security inherent in it--can only be achieved with years and years of careful stewardship. It requires not just time, but also the financial burden of sowing fields in season-long cover crops to replenish nutrients and build organic matter, and foregoing the income those acres could provide in the short term. These are big picture investments that can't be recouped, and time that can't be reclaimed.

Infrastructure

A successful diversified vegetable farm also needs a significant amount of infrastructure: Buildings to wash and pack produce, structures to store equipment and materials, shop space to maintain tractors and vehicles, greenhouses, office space, etc. There are semi-movable compromises for some of these, but they're just that: compromises. Rather than choosing infrastructure that best fits the farm's needs, a landless farmer must choose infrastructure that best fits the back of a flatbed. Rarely are the two the same. There are also infrastructure investments that simply have no moveable alternatives: wells for washing produce, utility infrastructure, buried drainage lines ("tiles") in the fields, underground water mains for irrigation. Even money to improve existing infrastructure is an investment that can't be reclaimed.

The situation

Historically, land tenure in the US has meant that a farmer owned his land, having inherited it or purchased it on the open market as a regular homeowner might. Given the skyrocketing prices of real estate surrounding metropolitan areas--driven by development pressure as well as the market for "rural estates" and second homes--this is simply impossible for today's new farmer. It's not just an inability to produce such a large down-payment and the start-up capital: It's that even a well-run operation with established markets would be unable to service the mortgage on a market-rate purchase price. For a start-up, it would be ludicrous to take on such a burden. As the prices rise and the remaining farmland dwindles--at a rate of 2 acres PER MINUTE according to American Farmland Trust--this situation only gets worse and worse.

Alternatives

So, if purchase at market value is out of the question, what are the options? We see two main alternatives:

The most conventional option is purchasing land whose market value has been reduced through a conservation easement (also called sale of Private Development Rights). Think of property ownership as a bundle of rights that a landowner has to a given parcel--the right to build a home, construct a subdivision, plow a field, drill an oil well. Traditionally, an owner owns all of these rights. With a conservation easement, one of those rights--to develop or subdivide the land--is transferred to a third party (usually the state or a non-profit). The price of this right is the difference between the property's open-market value and it's new, more-restricted value. In a market with high development pressure, that can be the difference between an unaffordable purchase price and an agricultural possibility. This approach still requires significant capital outlay for the farmer, as well as holds him to monthly mortgage payments... but it also offers him the opportunity to build equity through the land and a relatively straightforward ownership arrangement.

The second option is a long-term lease--or "ground lease"--on a property that is owned by a government agency, non-profit, or private entity. A ground lease offers long term tenure (often 99 years) without the upfront costs of traditional purchase. Often a farmer will purchase the improvements on the land (house, barn, infrastructure) but not the land they sit on. When he retires, he can recoup his investment by selling the improvements to the next tenant. Not infrequently there are clauses built into ground leases to ensure that the next tenant also farm the property, or that restrict the sale price of the improvements to an agriculturally affordable level. A ground lease offers less opportunity to build equity, but usually has much lower initial and month-to-month expenses to the farmer. There may be fewer opportunities for new prime agricultural ground leases because the purchasing entity (for instance, a non-profit that would purchase land and lease it out) must foot the entire cost, rather than simply taking on a portion of the value, as with an easement. It is also more burdensome for the lessor/ landowner to supervise a ground-lease arrangement as compared to simply purchasing development rights.

A hybrid of these two strategies involves a ground lease on the agricultural fields combined with a direct sale of a portion of the land for infrastructure and housing. This variation allows the farmer more ability to build equity and a potentially simpler lease arrangement, but at a higher initial cost.

text from: http://www.quincyfarm.net/farm-land-access.html

FARMLAND INFORMATION CENTER

FACT SHEET

GLOSSARY

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ADEQUATE PUBLIC FACILITIES ORDINANCE

A form of comprehensive growth management that prevents new homes from being built in a community until municipal services such as sewers, roads, public water supplies and schools are available to serve the new residents.

AGRICULTURAL CONSERVATION EASEMENT

A legal agreement restricting development on farmland. Land subjected to an ACE is generally restricted to farming and open space use. See also conservation easement.

AGRICULTURAL DISTRICT

A legally recognized geographic area formed by one or more landowners and approved by one or more government agencies, designed to keep land in agriculture. Agricultural districts are created for fixed, renewable terms. Enrollment is voluntary; landowners receive a variety of benefits that may include eligibility for differential assessment, limits on annexation and eminent domain, protection against unreasonable government regulation and private nuisance lawsuits, and eligibility for purchase of agricultural conservation easement programs. Also known as agricultural preserves, agricultural security areas, agricultural preservation districts, agricultural areas, agricultural incentive areas, agricultural development areas and agricultural protection areas.

Agricultural Protection Zoning (APZ)

Zoning is a form of local land use regulation. Agricultural protection zoning ordinances protect the agricultural land base by limiting non-farm uses, prohibiting high-density development, requiring houses to be built on small lots and restricting subdivision of land into parcels that are too small to farm.

APZ takes many forms:

Exclusive agricultural zoning

This form of zoning prohibits non-farm residences and most non-agricultural activities; exceptions are made for parcels of land that are not suitable for farming.

Large minimum lot size zoning

These ordinances require a certain number of acres for every non-farm dwelling, typically at least 20 acres in the eastern United States or at least 35 acres in other regions.

Area-based allowance zoning

These ordinances establish a formula for the number of non-farm dwellings permitted per acre, but houses are typically built on small lots.

Fixed area-based allowance zoning

These ordinances specify a certain number of units per acre.

Sliding scale area-based allowance zoning

Under these ordinances, the number of dwellings permitted varies with the size of the tract. Owners of smaller parcels are allowed to divide their land into more lots on a per-acre basis than owners of larger parcels.

ANNEXATION

The incorporation of land into an existing community that results in a change in the community's boundary. Annexation generally refers to the inclusion of newly incorporated land but can also involve the transfer of land from one municipality to another.

APPRAISAL

A systematic method of determining the market value of property.

BARGAIN SALE

The sale of property or an interest in property for less than fair market value. If property is sold to a qualifying public agency or conservation organization, the difference between fair market value and the agreed-upon price can be claimed as a tax-deductible charitable gift for income tax purposes. Bargain sales also are known as conservation sales.

BUFFERS

Physical barriers that separate farms from land uses that are incompatible with agriculture. Buffers help safeguard farms from vandals and

The Farmland Information Center is a public/private partnership between American Farmland Trust and the USDA Natural Resources Conservation Service that provides technical information about farmland protection.

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trespassers, and protect homeowners from some of the negative impacts of commercial farming. Vegetated buffers and topographic barriers reduce the potential for clashes between farmers and their non-farming neighbors. Buffers may be required by local zoning ordinances.

CIRCUIT BREAKER TAX RELIEF
A tax abatement program that permits eligible landowners to take some or all of the property tax they pay on farmland and farm buildings as a credit to offset their state income tax. Generally, farmers are eligible for a credit when property taxes exceed a set percentage of their income.

CLUSTER ZONING
A form of zoning that allows houses to be built close together in areas where large minimum lot sizes are generally required. By grouping houses on small sections of a large parcel of land, cluster zoning can be used to protect open space. Also known as cluster development, land preservation subdivision, open land subdivision and open space subdivision.

COMMUNITY SUPPORTED AGRICULTURE (CSA)
A form of direct marketing of farm products that involves customers paying the farmer in advance for a weekly share of the harvest. Customers are often called shareholders. In some cases, shareholders may participate in farm work and farm decisions. Farms that use this marketing strategy are called “CSA farms” or “CSAs.” CSA is also known as subscription farming.

COMPREHENSIVE GROWTH MANAGEMENT
A state, regional, county or municipal government program to control the timing, location and character of land development.

COMPREHENSIVE PLAN
A regional, county or municipal document that contains a vision of how the community will grow and change and a set of plans and policies to guide land use decisions. Comprehensive plans also are known as general plans and master plans.

CONSERVATION EASEMENT
Legally recorded, voluntary agreements that limit land to specific uses. Easements may apply to entire parcels of land or to specific parts of the property. Most are permanent; term easements impose restrictions for a limited number of years. Land protected by conservation easements remains on the tax rolls and is privately owned and managed; landowners who donate permanent conservation easements are generally entitled to tax benefits. See also agricultural conservation easement and purchase of agricultural conservation easements.

CORN SUITABILITY RATING (CSR)
A numerical system for rating the productivity of farmland, used primarily in Iowa.

COST OF COMMUNITY SERVICES (COCS) STUDY
A case study method of allocating local revenues and expenditures to different land use categories. COCS studies reveal the net contribution of residential, commercial, industrial, forest and agricultural lands to local budgets.

CURRENT USE ASSESSMENT
See differential assessment.

DEFERRED TAXATION
A form of differential assessment that permits eligible land to be assessed at its value for agriculture. Deferred taxation is similar to preferential assessment, but landowners must pay some or all of the taxes that were excused if they later convert land to ineligible uses. Rollback taxes assess the difference between taxes paid under differential assessment and taxes that would have been due if the land was assessed at fair market value.

DEVELOPMENT RIGHTS
Development rights entitle property owners to develop land in accordance with local land use regulations. In some jurisdictions, these rights may be sold to public agencies or qualified nonprofit organizations through a purchase of agricultural conservation easement or purchase of development rights program. Sale of development

rights to a public agency or land trust generally does not pass any affirmative interest in the property. Rather than the right to develop the land, the buyer acquires the responsibility to enforce the negative covenants or restrictions stipulated in the development rights agreement.

Development rights may also be sold to individuals or a public agency through a transfer of development rights program. In this case, the buyer does acquire a positive right to develop land, but the right is transferred to a site that can accommodate growth.

DIFFERENTIAL ASSESSMENT
An agricultural property tax relief program that allows eligible farmland to be assessed at its value for agriculture rather than its fair market value, which reflects "highest and best" use. These take three different forms: preferential assessment, deferred taxation and restrictive agreements. Differential assessment is also known as current use assessment, current use valuation, farm use valuation and use assessment.

DOWNZONING
A change in the zoning for a particular area that results in lower residential densities. For example, a change from a zoning ordinance that requires 10 acres per dwelling to an ordinance that requires 40 acres per dwelling is a downzoning.

FARM LINK
A program that matches retiring farmers who want to keep their land in agriculture with beginning farmers who want to buy a farm. Farm Link programs are designed to facilitate farm transfer, usually between farmers who are not related to each other. Also known as Land Link.

FEE SIMPLE
A form of land ownership that includes all property rights, including the right to develop land.

GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT PRACTICES (GAAMPS)
Agricultural practices that are widely used by farmers, promoted by agricultural institutions such as Extension and comply with federal and state environmental, health and safety laws and regulations. Some states have specific definitions of GAAMPs that may be used to determine whether a particular farm practice constitutes a public or private nuisance.

GEOGRAPHIC INFORMATION SYSTEM (GIS)
A method of storing geographic information on computers. Geographic information can be obtained from a variety of sources, including topographical maps, soil maps, aerial and satellite photographs and remote sensing technology. This information can then be used to create special maps for recordkeeping and decision-making purposes. GIS systems may be used to maintain maps of protected land or make decisions about which farmland to protect.

LAND EVALUATION AND SITE ASSESSMENT (LESA)
A numerical system that measures the quality of farmland. It is generally used to select tracts of land to be protected or developed.

LAND LINK
See farm link.

LAND TRUST
A private, nonprofit conservation organization formed to protect natural resources such as productive farm and forest land, natural areas, historic structures and recreational areas. Land trusts purchase and accept donations of conservation easements. They educate the public about the need to conserve land, and some provide land use and estate planning services to local governments and individual citizens.

GLOSSARY

For additional information on farmland protection, the Farmland Information Center offers publications, an on-line library and technical assistance. To order AFT publications, call (800) 370-4879. The farmland information library is a searchable database of literature, abstracts, statutes, maps, legislative updates and other useful resources. It can be reached at http://www.farmlandinfo.org. For additional assistance on specific topics, call the technical assistance service at (413) 586-4593.

LOCAL AGENCY FORMATION COMMISSION (LAFCO)
A California state agency existing in each county, LAFCOs consist of commissioners from city councils, county boards of supervisors and members of the general public. They function as boundary commissions with the power to approve or deny requests for annexation of land from unincorporated (county) areas into incorporated (city) areas. LAFCOs also have authority to incorporate cities, establish or modify "sphere of influence" boundaries, and create or expand special district boundaries.

MITIGATION ORDINANCE
An ordinance or section of an ordinance or state law that requires developers of agricultural land to protect an equivalent quantity of land with similar characteristics in the same political jurisdiction. In some cases, developers may satisfy the mitigation requirement by paying a fee.

NATURAL RESOURCES CONSERVATION SERVICE (NRCS)
Formerly known as the Soil Conservation Service, NRCS is a federal agency within the U.S. Department of Agriculture that provides leadership and administers programs to help people conserve, improve and sustain our natural resources and environment. The agency provides technical assistance to farmers and funds soil conservation and farmland protection programs. It also maintains statistics on farmland conversion. NRCS has offices in every state and in most agricultural counties.

PLANNED UNIT DEVELOPMENT (PUD)
A tract of land that is controlled by one entity and is planned and developed as a whole, either all at once or in programmed stages. PUDs are developed according to detailed site plans and may incorporate both residential and commercial land uses. They generally include improvements such as roads and utilities.

PREFERENTIAL ASSESSMENT
A form of differential assessment that permits eligible land to be assessed at its value for agriculture.

PURCHASE OF AGRICULTURAL CONSERVATION EASEMENTS (PACE)
PACE programs pay farmers to keep their land available for agriculture. Landowners sell an agricultural conservation easement to a qualified public agency or private conservation organization. Landowners retain full ownership and use of their land for agricultural purposes. PACE programs do not give government agencies the right to develop land. Development rights are extinguished in exchange for compensation. PACE is also known as purchase of development rights (PDR) and as agricultural preservation restriction (APR) in Massachusetts.

PURCHASE OF DEVELOPMENT RIGHTS (PDR)
See purchase of agricultural conservation easements.

REAL ESTATE TRANSFER TAX
A state or local tax imposed on the sale of real property.

RECEIVING AREA
Areas designated to accommodate development transferred from agricultural or natural areas through a transfer of development rights program.

RESTRICTIVE AGREEMENTS
A type of differential assessment that requires landowners to sign contracts to keep land in agricultural use for 10 years or more as a condition of eligibility for tax relief. If a landowner gives notice of intent to terminate a contract, the assessed value of the property increases during the balance of the term to the full fair market value.

RIGHT-TO-FARM LAW
A state law or local ordinance that protects farmers and farm operations from public and private nuisance lawsuits. A private nuisance interferes with an individual's use and enjoyment of his or her property. Public nuisances involve actions that injure the public at large.

SENDING AREA
Area to be protected through a transfer of development rights program. Landowners may sell their development rights to private individuals or a public agency; the rights are used to build homes in a designated receiving area.

SETBACK
A zoning provision requiring new homes to be separated from existing farms by a specified distance and vice versa.

SPECIAL ASSESSMENT
A charge that state and local governments can impose on landowners whose land benefits from the construction of roads or sewer lines adjacent to their property. The amount of the special assessment is usually the pro rata share of the cost of installing the improvement.

TAKING
An illegal government appropriation of private property or property rights. Traditionally, takings law has addressed physical seizures of land, but regulations that deprive landowners of certain property rights may also result in a taking in special circumstances. Courts decide whether a particular government action constitutes a taking.

TRANSFER OF DEVELOPMENT RIGHTS (TDR) PROGRAM
A program that allows landowners to transfer the right to develop one parcel of land to a different parcel of land to prevent farmland conversion. TDR programs establish "sending areas" where land is to be protected by agricultural conservation easements and "receiving areas" where land may be developed at a higher density than would otherwise be allowed by local zoning. Landowners in the sending area sell development rights to landowners in the receiving area, generally through the private market. When the development rights are sold on a parcel, a conservation easement is recorded and enforced by the local government. In some cases, the local government may establish a "TDR bank" to buy and sell development rights.
The development rights created by TDR programs are referred to as transferable development rights (TDRs) or transferable development credits (TDCs).

UPZONING
A change in the zoning for a particular area that results in higher residential densities. For example, a change from a zoning ordinance that requires 100 acres per dwelling to an ordinance that requires 25 acres per dwelling is an upzoning.

URBAN GROWTH BOUNDARY
A theoretical line drawn around a community that defines an area to accommodate anticipated growth for a given period of time, generally 20 years. Urban growth boundaries are a growth management technique designed to prevent sprawl. They are often used to guide decisions on infrastructure development, such as the construction of roads and the extension of municipal water and sewer services.

FARMLAND INFORMATION CENTER

FACT SHEET

FARM TRANSFER AND ESTATE PLANNING

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DESCRIPTION

Estate planning should lay a framework for a smooth transition of farm or ranch ownership and management. It can provide for the needs of all family members, even those who leave the operation. It can help reduce high inheritance taxes on land made more valuable by inflation and non-farm development pressure. And proper estate planning can address the settlement problems that arise because land is not a liquid asset.

An estate plan is more than a will. A will is an important part of the plan because it names heirs, nominates an executor and appoints guardians for dependents. But a will alone cannot guarantee a secure future for the farm family, land or business.

A good estate plan should accomplish at least four goals:

- Transfer ownership and management of the agricultural operation, land and other assets;
- Avoid unnecessary transfer taxes (income, gift and estate);
- Ensure financial security and peace of mind for all generations; and
- Develop the next generation's management capacity.

Laws, especially tax laws, change. Two important elements of estate planning are to set goals and then to revisit them over time as families, finances, priorities and laws change. As part of this goal-setting process, landowners must take inventory of their assets and be sure they fully understand who owns what and how titles to the property are held.

BASIC TECHNIQUES

Farmers and ranchers should complete a will and keep it updated. A living will, health care proxy and the designation of power of attorney are important ways to ensure that the family will be able to make decisions if the landowner becomes seriously injured or terminally ill. The estate planning process is a good opportunity to resolve business operation and management issues and to transfer assets. For tax and other reasons, it makes sense to start transferring operating assets as soon as both generations are comfortable with the commitment.

The estate planning and farm transfer process is also a good time for landowners to evaluate their present business arrangements and decide whether those arrangements meet their current needs and help achieve their goals. They should choose the most appropriate form of business organization, whether it is a sole proprietorship, partnership or corporation. Written agreements are essential.

TRANSFER AND TAX REDUCTION STRATEGIES

- Agricultural conservation easements can permanently protect farmland from non-farm development and significantly reduce transfer taxes in cases where the market value of the land is much greater than its restricted value.
- Annual gifts of assets can help transfer the business and reduce transfer taxes.
- Buy/sell agreements can ensure an orderly transfer of the farm business.
- Life insurance can be used to fund buy/sell agreements, establish trusts, provide for non-farming heirs or pay estate taxes.
- Limited partnerships or corporations can allow separation of management and ownership of the business, if desired.
- Long-term care insurance can protect family assets from being used to pay for nursing home costs.
- Minority discounts can substantially reduce transfer tax liability when minority interests of family farm businesses are transferred.

FARM TRANSFER AND ESTATE PLANNING

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- Purchase of agricultural conservation easements (also known as purchase of development rights) programs can protect farmland, reduce taxes and provide cash for retirement and estate planning needs.
- Transferring management responsibility and asset ownership gradually can provide a smooth transition for the agricultural operation from one generation to the next.
- Trusts can provide financial security for surviving spouses, children and grandchildren.

ISSUES AND OPTIONS

Liquid assets—cash and cash equivalents—are important to settling farm and ranch estates. Having cash allows farm families to pay expenses and medical bills without selling land or farm equipment. Liquid assets also may be used to divide an estate fairly among heirs.

It is important to remember that an equitable settlement does not necessarily mean creating equal shares of a farm or ranch estate, because the children who are involved in a family agricultural enterprise have generally contributed a substantial amount of their time, energy and resources to make the business succeed. These children may have substantial "sweat equity" in the operation they inherit.

Balancing commercial and conservation goals in farm estate planning also is challenging, because farms are businesses. However, with careful planning, farmers and ranchers can take advantage of conservation options that protect land without unduly restricting agricultural enterprises. These conservation options should be integrated into estate plans to ensure long-term protection of both land and farming operations.

Successful farm transfer and estate planning require a team effort—including family, financial, farm management, tax and legal expertise. Because plans must be tailored to individual circumstances, they must be designed to meet a variety of unique situations. Landowners must be sure to talk to their families and find the professional legal and financial assistance they need to accomplish their goals.

ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001

The Economic Growth and Tax Relief Reconciliation Act of 2001 contains several provisions that affect farmland conservation and farm estate planning and transfer, including:

- A dramatic increase in the estate tax exclusion: $2 million in 2008 and $3.5 million in 2009;
- Repeal of estate tax in 2010;
- A reduction of highest tax brackets;
- Modified carryover basis in 2010;
- Removal of geographic limitations for donated conservation easements eligible for estate tax benefits under Section 2031(c) of the tax code; and
- A sunset provision.

JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003

The Jobs and Growth Tax Relief Reconciliation Act of 2003 also contains provisions that will affect farm estate planning, including:

- Lower capital gains from 20 to 15 percent (and from 10 to 5 percent for lower bracket taxpayers); and
- Reduction of taxes on dividends to match capital gains tax rates.

These tax law changes have provided significant estate and income tax reductions as well as some additional uncertainty for estate tax planning and farm transfer. Farm and ranch owners should contact their advisors to determine how those changes will affect their planning efforts.

FACT SHEET

AGRICULTURAL CONSERVATION EASEMENTS

DESCRIPTION

A conservation easement is a deed restriction landowners voluntarily place on their property to protect resources such as productive agricultural land, ground and surface water, wildlife habitat, historic sites or scenic views. They are used by landowners ("grantors") to authorize a qualified conservation organization or public agency ("grantee") to monitor and enforce the restrictions set forth in the agreement. Conservation easements are flexible documents tailored to each property and the needs of individual landowners. They may cover an entire parcel or portions of a property. The landowner usually works with the prospective grantee to decide which activities should be limited to protect specific resources. Agricultural conservation easements are designed to keep land available for farming.

RESTRICTIONS

In general, agricultural conservation easements limit subdivision, non-farm development and other uses that are inconsistent with commercial agriculture. Some easements allow lots to be reserved for family members. Typically, these lots must be small—one to two acres is common—and located on the least productive soils. Agricultural conservation easements often permit commercial development related to the farm operation and the construction of farm buildings. Most do not restrict farming practices, although some grantees ask landowners to implement soil and water conservation plans. Landowners who receive federal funds for farm easements must implement conservation plans developed by the USDA Natural Resources Conservation Service.

TERM OF THE RESTRICTIONS

Most agricultural conservation easements are permanent. Term easements impose restrictions for a specified number of years. Regardless of the duration of the easement, the agreement is legally binding on future landowners for the agreed-upon time period. An agricultural conservation easement can be modified or terminated by a court of law if the land or the neighborhood changes and the conservation objectives of the easement become impossible to achieve. Easements may also be terminated by eminent domain proceedings.

RETAINED RIGHTS

After granting an agricultural conservation easement, landowners retain title to their property and can still restrict public access, farm, use the land as collateral for a loan or sell their property. Land subject to an easement remains on the local tax rolls. Landowners continue to be eligible for state and federal farm programs.

VALUATION

Landowners can sell or donate an agricultural conservation easement to a qualified conservation organization or government body. In either case, it is important to determine the value of the easement to establish a price or to calculate tax benefits that may be available under federal and state law. The value of an agricultural conservation easement is generally the fair market value of the property minus its restricted value, as determined by a qualified appraiser. In general, more restrictive agreements and intense development pressure result in higher easement values.

TAX BENEFITS

Grantors can receive several tax advantages. Donated agricultural conservation easements that meet Internal Revenue Code Section 170(h) criteria are treated as charitable gifts. Term easements do not qualify. Donors can deduct an amount equal to up to 30 percent of their adjusted gross income in the year of the gift. Corporations are limited to a 10-percent deduction. Easement donations in excess of the annual limit can be applied toward federal income taxes for the next five years, subject to the same stipulations. Most state income tax laws provide similar benefits. Nine states offer income tax credits for easement donations.

Some state tax codes direct local tax assessors to consider the restrictions imposed by a conservation easement. This provision generally lowers property taxes on restricted parcels if the land is

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AGRICULTURAL CONSERVATION EASEMENTS

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not already enrolled in a differential assessment program. Differential assessment programs direct local tax assessors to assess land at its value for agriculture or forestry, rather than its "highest and best" use, which is generally for residential, commercial or industrial development.

The donation or sale of an agricultural conservation easement usually reduces the value of land for estate tax purposes. To the extent that the restricted value is lower than the fair market value, the estate will be subject to a lower tax. In some cases, an easement can reduce the value of an estate below the level that is taxable, effectively eliminating any estate tax liability. However, as exemption levels increase, there may be less incentive from an estate tax perspective.

Recent changes to federal estate tax law, enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001, expanded an estate tax incentive for landowners to grant conservation easements. The new law removes geographic limitations for donated conservation easements eligible for estate tax benefits under Section 2031(c) of the tax code. Executors can elect to exclude 40 percent of the value of land subject to a donated qualified conservation easement from the taxable estate. This exclusion is limited to $500,000. The full benefit offered by the new law is available for easements that reduce the fair market value of a property by at least 30 percent. Smaller deductions are available for easements that reduce property value by less than 30 percent.

HISTORY

Forty-eight states have a law pertaining to conservation easements. The National Conference of Commissioners on Uniform State Laws adopted the Uniform Conservation Easement Act in 1981. The Act served as a model for state legislation allowing qualified public agencies and private conservation organizations to accept, acquire and hold less-than-fee simple interests in land for the purposes of conservation and preservation. Since the Uniform Conservation Easement Act was approved, 21 states and the District of Columbia have adopted conservation easement enabling laws based on this model; 27 states have drafted and enacted their own enabling laws.* Accepting donated conservation easements is one of the major activities of land trusts. Land trusts exist in all 50 states. They monitor and enforce the terms of easements. Some also purchase conservation easements.

BENEFITS

- Conservation easements permanently protect important farmland while keeping the land in private ownership and on local tax rolls.
- Conservation easements are flexible, and can be tailored to meet the needs of individual farmers and ranchers and unique properties.
- Conservation easements can provide farmers with several tax benefits including income, estate and property tax reductions.
- By reducing non-farm development land values, conservation easements help farmers and ranchers transfer their operations to the next generation.

DRAWBACKS

- While conservation easements can prevent development of agricultural land, they do not ensure that the land will continue to be farmed.
- Agricultural conservation easements must be carefully drafted to ensure that the terms allow farmers and ranchers to adapt and expand their operations and farming practices to adjust to changing economic conditions.
- Donating an easement is not always a financially viable option for landowners.
- Monitoring and enforcing conservation easements requires a serious commitment on the part of the easement holder.
- Subsequent landowners are not always interested in upholding easement terms.
- Conservation easements do not offer protection from eminent domain. If land under easement is taken through eminent domain, both the landowner and the easement holder must be compensated.

* Sources: Uniform Law Commissioners and the Land Trust Alliance.

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FACT SHEET

DIFFERENTIAL ASSESSMENT AND CIRCUIT BREAKER TAX PROGRAMS

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DESCRIPTION

Tax incentives are widely used to maintain the economic viability of farming. All states have at least one program designed to reduce the amount of money farmers are required to pay in local real property taxes.

The most important type of agricultural tax program is known as differential assessment. Every state except Michigan has a differential assessment program that allows officials to assess farmland at its agricultural use value, rather than its fair market value, which is generally higher. Agricultural use value represents what farmers would pay to buy land in light of the net farm income they can expect to receive from it. Full fair market value represents the amount a willing buyer—whether farmer or developer—would pay for the land. Differential assessment is also known as current use assessment and use value assessment.

Three states—Michigan, New York and Wisconsin —allow farmers to claim state income tax credits to offset their local property tax bills. These programs are called "circuit breakers" because they relieve farmers of real property taxes that exceed a certain percentage of their income. Iowa and New York offer a credit against school taxes on agricultural land. While circuit breaker programs are not widespread, they are receiving increasing attention from state governments looking for ways to relieve farmers' tax burden.

HISTORY

Iowa's Agricultural Land Credit Fund, established in 1939, was the first state program to provide farmers with relief from property taxes. Maryland enacted the nation's first differential assessment law in 1956. Between 1959 and 1969, 20 other states adopted differential assessment legislation. Michigan adopted its circuit breaker tax relief program in 1974. By 1989, all 50 states had at least one type of agricultural tax program for farmland owners, and several states had more than one program.

As the value of farmland has risen, states have expanded their agricultural tax programs. Michigan adopted a special tax rate for farmland as part of its comprehensive property tax reform legislation in 1994. Wisconsin created a differential assessment program to supplement its circuit breaker program in 1995, and New York supplemented its differential assessment program with a circuit breaker program in 1996.

FUNCTIONS & PURPOSES

Differential assessment laws and circuit breaker tax relief programs have three purposes: to help farmers stay in business by reducing their real property taxes; to treat farmers fairly by taxing farmland based on its value for agriculture, rather than at fair market value as if it were the site of a housing development; and to protect farmland by easing the financial pressures that force some farmers to sell their land for development.

As agricultural land is developed, property values rise. As new residents and businesses move to rural areas, local governments often raise property tax rates to support increased demand for public services. Tax rates that are based on the value of agricultural land for residential or commercial development do not reflect the current use of the land, nor farmers' ability to pay. Increasing property values and the corresponding rise in taxes can reduce farm profitability.

High land values also make it more difficult for farmers to increase profits by expanding their operations. The combination of expensive real estate and high taxes creates strong economic incentives for farmers to stop farming and sell land for development. Differential assessment and circuit breaker programs help ensure that farmers who want to continue farming will not be forced to sell land just to pay their tax bills.

Differential assessment and circuit breaker programs also help correct inequities inherent in local property tax systems. Property taxes are assessed on a per-acre basis, and farmers are

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often the largest landowners in rural community's. The amount of land a farm family owns, however, does not reflect the cost of services they receive from local government. Studies show that farmland owners pay more in taxes than the value of the public services they receive from local governments, while homeowners receive more services than their taxes pay for.

BENEFITS

- Agricultural tax programs help farmers stay in business by lowering their expenses.
- Agricultural tax programs help correct inequities in the tax system.

DRAWBACKS

- Agricultural tax programs do not ensure longterm protection of farmland.
- Differential assessment programs often provide a subsidy to real estate speculators, who are keeping their land in agriculture pending development.

Issue #10: Funding Strategies - Shaking the Money Tree

Issue #9 was focused on helping the entrepreneur determine the **amount** of startup financing needed, and this issue continues the discussion by describing various **sources** of financing and how funding is typically **staged** over the life of the business. This issue is intended to acquaint the reader with the differences between loans and equity financing and sources for each type of financing.

Ag and Food-Based Angle

Most ag- and food-based businesses have products or services that are consumer-based and tied somehow to a farm business. As such, there may be a ready source (asset-based borrowing) of funding. Growth prospects vary, but many ag-based entrepreneurs have as their mission to create and grow healthy businesses to support a household or two, rather than creating a high-growth, venture-funded business. So it is important to identify various sources of money for ag- and food-based companies, aside from the venture funding that was so highly publicized in the dot-com era.

Debt vs. Equity

Beginning entrepreneurs often ask me if a bank will fund their businesses. My answer is that the bank may loan money (asset-backed loans) for your operation, but they are not in the investment business. So a starting point for our discussion is to distinguish between using debt (a loan to be repaid) and equity to get funds together for your business. It helps if we view the situation as a spectrum (ignoring instruments that combine debt/equity). Table 3 presents some of the important differences between debt and equity.

One thing that clearly emerges from looking at the table is that because equity investors are

Table 3. Comparing Characteristics of Debt and Equity Funding

Characteristic	***Debt***	***Equity***
Repayment terms	Fixed periodic repayment with interest	Repayment in future; set by negotiation; no repayment in case of failure (hence, higher risk)
Rate of return expected	Typically set in relationship to the primary lending rate	Depends on source • Family – highly negotiable • Community venture funds (20-50%) • Venture capitalists – double-digit returns expected, ranging from 50-100% for most aggressive investors
Frequency of payment	Typically monthly	Negotiable – deferred
On balance sheet	Liability	Stockholder's equity
Cost to entrepreneur	Comes from on-going cash flow, but is a deductible expense	Entrepreneur gives up ownership and therefore a portion of long-term income growth prospects
Participation in business	Minimal as long as payments are met	Variable – high in the case of angels and venture capitalists
Risk to source	Legal obligation to make payment	Risk shared by investor
Ownership implications	All ownership retained	Give up some portion of ownership

absorbing more risk, they expect a higher return and more participation in the business. In contrast, using debt to start a business is dependent on cash flow issues, especially early in the business.

Funding Strategies and Sources

Your choice of funding strategy depends on your mission and business strategy. A "lifelong small business" owner who wants to grow the business just big enough to support the households involved is likely to need cash to start or grow the operation, but is often unwilling to give up ownership in return. In addition, the business will not generate the rapid growth in income that outside investors require, so a "lifelong small business" would have trouble attracting big outside investors who expect a return in the double digits on their money. In such a case it is important to identify alternative means for raising money that do not involve diluting your equity in the business. For example, the business might be funded with an SBA-backed loan or by borrowing money from an existing business or from friends and family. In such a case it is crucial to understand the bank's expectations and/or how to structure borrowing to avoid problems. By contrast, "high-growth" businesses are aimed at large markets and must be funded adequately for scaling up the business. For high-growth ag- or food-based enterprise owners, it will be important to understand the steps in financing the business, the sources and tradeoffs of where to obtain growth capital, and the basics of venture-backed funding.

The reality is that most small businesses go through several stages of business funding. At each stage, you will consider the amount of funding needed, whether you are eligible for borrowing (usually requires an asset), whether you have achieved the right milestones and have the right profile for investors, and how much ownership you want to retain.

Next, let's examine three aspects of each type of financing: 1) the sources available, 2) expectations of the source, and 3) any special issues important to the startup entrepreneur.

Debt Financing

Sources

Sources for debt financing include:

- Commercial Banks
- Asset based lenders
- Factoring
- Trade credit
- Equipment suppliers
- Commercial finance companies
- Savings and Loan associations
- Government-backed lending (such as SBA and other government programs - see Additional Resources)
- Credit cards.

Expectations of Bankers

You probably have some kind of bank account and like the rest of us, you count on your bank to keep that money safe. Keep that perspective in mind when considering the expectations of a banker approaching a small business loan. The banker is responsible for choosing lending opportunities that are safe, or have a very high probability of repayment. Thus, the primary focus of examining the loan will be on the abilities of the manager/owner to run a profitable business and the ability of the business to generate enough cash flow to make regular payments. The New York Federal Reserve (see Additional Resources) describes this as the five Cs:

- **Special Issues**
  - ◊ Credit card debt
    Credit cards are a very expensive source of funds for a new business. They only make sense if there is a relatively short selling cycle and borrowing is covering a small gap in cash flow. Even so, remember that in most cases you will be paying double-digit interest rates.

Table 4. The Five Cs of Credit Application

Criterion	*Description*	*What the banker looks at*

Capacity	Most critical – how will you repay the loan	- cash flow from business
		- timing of repayment
		- probability of successful repayment, based on:
		  - previous personal credit history
		  - previous business credit history
		- contingent sources of repayment

Character	Impression you make on the lender (this is subjective) with regard to trustworthiness	- review your educational background and business experience - references required regarding you as an individual, the business and your employees
Capital	Personal funds invested in the business (an indicator of how much you have at risk in the event of business failure)	- expect contributions from your assets - want to see that you are willing to take personal financial risk
Collateral	Guarantees, forms of security in the event of failure	- collateral expected - personal guarantee often required
Conditions	Intended purpose of loan (working capital, additional assets or inventory)	- also looks at the current economy and your industry for signs of health

Based on Federal Reserve Bank of New York website: The Credit Process, A Guide for Small Business Owners (http://www.ny.frb.org/pihome/addpub/credit.html#Lenders).

◊ SBA Loans
Although the rules are outlined on the Small Business Administration website, http://www.sba.gov/financing/fr7aloan.html#general), to understand whether your business is eligible for an SBA-backed loan, it makes sense to visit with a local bank or credit union that is familiar with the SBA program.

◊ Staging of Debt Financing
The New York Federal Reserve Bank (see Additional Resources) organizes businesses into four categories and gives advice about appropriate funding sources, as shown in Table 5.

- **Common Errors When Borrowers Approach A Bank**
Bankers tell me that often business owners approaching them make some of the following mistakes:

◊ Are not prepared even with a simple written business plan with financials that have been reviewed by a qualified accountant;
◊ Don't realize that the management team and repayment ability are the top considerations;
◊ Mix up short-term and long-term debt -- most loans are asset-based and the life of the loan must coincide with a reasonable lifespan of the asset;
◊ No collateral or are unaware they will be asked to make a personal guarantee;
◊ Think they can borrow 100% of value of asset (usually 60-75%).

Table 5. Stages of Business and Appropriate Sources of Debt Financing

Stage	*Description of Business and Milestones*	
Stage one	Startups	Informal investors, such as: • friends or relatives, partners • local development corporations • state and local governments offering low-interest micro-loans • private foundations offering program-related investments • credit unions featuring small business lending • universities with targeted research and development funds
Stage two	Businesses have business plans and product samples but no revenue	Same as stage one
Stage three	Businesses have full business plans and pilot programs in place	Commercial bank or other traditional lender
Stage four	Businesses have been in operation for some time and have documented revenues and expenses	Same as three

Equity Financing

Sources

Kevin McGovern, lawyer, entrepreneurship expert, and principal of McGovern Capital LLC, always tells me to think about funding in concentric circles. "You start with sources closest to you and work your way outwards," according to Kevin. The further you go from the center, the more control you give up, the more formal your plan is expected to be, and the higher rate of return is expected. Figure 1 is an example of the places you might look for financing from equity sources and how they differ in terms of ties to the founder and expectations regarding returns.

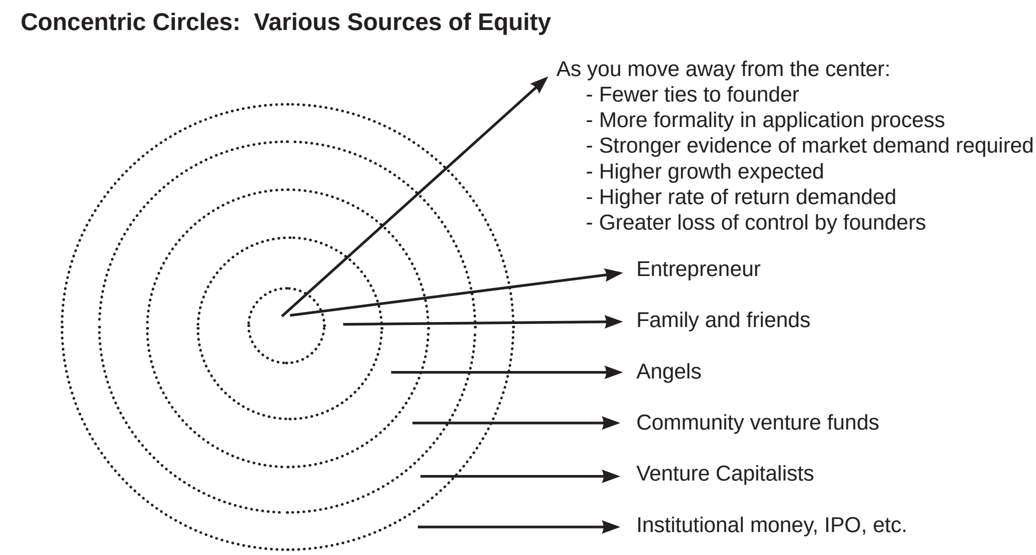
Personal Equity

The first place to look for funding is always the entrepreneur's own pocket. If your new business is a spin-off of an existing farm business, you may have the capacity to invest a fair amount. I am often asked "What percent of total funding should come from my pocket?" The answer depends both on your ability to put cash into the business and on your willingness to share ownership. If you want other investors to join, they will be expecting you to risk a reasonable amount of your own savings and wealth in the business. It is not so much the amount as it relates to the company, but more whether you have enough at stake to work diligently at making the business profitable.

Family and Friends

It is common for family and friends to be another source of funding for new companies. If you pursue this source, I urge you to make a formal agreement (simple, but FORMAL) so that expectations are clear on the investor side. I have heard too many stories about families that didn't realize that if the business went under they would not be able to recover even the principal they contributed to the company. I have also heard stories of entrepreneurs whose family or friends wanted more involvement than was expected. Get it down on paper.

Figure 2. Characteristics of Various Sources of Equity



Angel Investors

So called "angels" are wealthy individuals who enjoy investing in new companies. It is a diverse group, and although they have high incomes they may not necessarily be multi-millionaires. Typically angel investors are found through networking. The Additional Resources section has more information about on-line communities of angels.

Community Development Venture Funds

A relatively recent development in some communities is the establishment of community development venture funds. Typically, such funds look for local investments linked to employment and economic development. In the Additional Resources section, you'll find some examples. The best approach is to check your local region for such funds.

Venture Capitalists

There has been a lot of change in the venture community over the past decade. During the dot.com era, funds swelled and venture companies started doing larger, later-stage investments. The downturn in the economy and the failure of many Internet-based companies has resulted in a shake-out of companies. It is unlikely that in the startup phase venture capitalists will be interested in your project. However, many of their sites have good information about business planning and financial models.

What Equity Investors Expect

The first circles in the concentric circle model (yourself, friends and family) may not have well-specified expectations (although I encourage you to articulate them if at all possible). However, the rest of the players in the equity markets have very specific expectations.

The number one consideration of equity investors is the quality of the management team. That surprises many entrepreneurs, who expect investors to be more focused on the idea. See Issue #4 for details on how to build and present the individual or team who provided primary leadership to your company.

The second consideration is the size of the potential market. At the extreme, venture funding is only available for companies that have the potential for a huge market. Another way to look at it is the business must be "scalable" to a national and/or global marketplace. The further out from the center of the circle, the higher return is expected. Equity investors are buying into your business, and in the process they assume some of the risks of the business. Accordingly, they expect very high returns.

Special Issues

Staging of Equity Investment

As has been mentioned elsewhere in this series, the staging of your business involves a series of milestones (product development, acquiring customers, obtaining revenues, achieving growth targets). Equity funding should be coordinated with these milestones. Although you may hear the advice that it is better to try and raise one large amount rather than many small equity investors, the reality of who and how much is likely to be dictated by the stage of your company. You'll find entrepreneurs and experts who say not to give up any of your equity, and others who argue that as long as the pie gets large enough it doesn't matter what part of it you sell to investors. In the end, deciding on the pace and extent of equity investment is a highly personal decision.

How Much Ownership Do You Give Up?

One very difficult area for new businesses seeking investment is figuring out for a given equity investment how much of the company ownership is shared. Although the mathematical approach is to look at some sort of discounted cash flow model of expected revenues, the truth is that valuation is an art or a science and depends primarily on negotiation with your investors. The investor will be motivated to place a low valuation on the company so as to gain as much ownership as possible for every dollar invested. The entrepreneur, of course, is motivated to place a high valuation on the business.

Summary

Deciding where and how to fund your business is intricately linked to your business strategy. If you have a business that is a cash cow from the beginning, you may be able to afford to borrow money rather than give up equity. On the other hand, if your company requires a large upfront investment, has the potential for growth, and will not have adequate cash flow to meet loan repayments, you may be faced with seeking equity investment. I hope this issue is helpful in orienting some of your thinking as you plan for your own individual case.

Additional Resources

- **Cornell's Agriculture-Based Economic & Community Development**
  http://www.cals.cornell.edu/agfoodcommunity/afs_temp3.cfm?topicID=351
  This Cornell site lists funding opportunities for ag-based businesses. Examples are:

  ◊ **Grow New York Funds**
  http://www.agmkt.state.ny.us/GNYRFP.html
  This site tells about a special project for "agribusinesses in New York State" which are eligible for funding under certain conditions.

- **ACE-Net**
  http://acenet.csusb.edu/
  ACE-Net.org, Inc., incorporated in the State of Delaware, is pursuing 501(c)(3) status to conduct networking, educational, training and research activities for increasing access to the entrepreneurial capital marketplace. This site features on-line matching of businesses with angels. It is difficult to discern with any of these matching services what the success rate is, so I would be reluctant to rely only on virtual networks.

- **Community Development Venture Capital Alliance**
  http://www.cdvca.org/
  A good example of a fund with a community development spin, the CDVCA site features resources for entrepreneurs and the ability to join the virtual community or "shop" your business.

Equity Creation for Sustainable Agriculture

▪ Abhishek Desai ▪ Bill Creamer ▪ Renee Lin ▪ Will Hall ▪ William Yang

Project Managers: James W. Hutchin ▪ Protiti Dastidar

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Land Access & Equity Creation

- Sustainable agriculture works best in close-in urban areas
- Traditionally, land ownership has contributed to equity creation
- Land ownership is often not a feasible option as land in close-in urban areas is expensive

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Problem
Agenda
Strategic Insights
Alternatives
Financials
Implications

Farm Ownership Trends

- The value of farmland as an appreciable asset, apart from its productive value[a]
  - Has dictated who owns it, who works it, and who inherits it
- Land ownership is a dominant cultural value in the U.S., particularly in the eastern U.S.[a]
  - Yet, increasingly difficult for people who want to farm to purchase land

Percentage of Owned Agricultural Land			
European Union	54.5%	United States	62%
United Kingdom	66%	Northeastern U.S.	75%
Germany	37%	Pennsylvania	70%

Sources: 1) Eurostat, 2007 2) USDA, 2007
[a] Ruhf Kathy, Access to Land, http://growingnewfarmers.org/uploads/uploads/Files/Access_to_Land__TNF_article.pdf

Problem
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Strategic Insights
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Implications

Farm Ownership Trends

- "Next generation" farmers are coming from non-farm backgrounds[a]
  - The challenge is to find land that is suitable, affordable and provides adequate security
- A need for new farming models that foster farmland access, security, affordability and investment[a]
  - Land ownership becomes less and less of a possibility/necessity
  - Traditional rental tenure agreements fail to foster land stewardship values

[a] Ruhf Kathy, Access to Land, http://growingnewfarmers.org/uploads/uploads/Files/Access_to_Land__TNF_article.pdf

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- Problem
- Agenda
- Strategic Insights
- Alternatives
- Financials
- Implications

Agenda

- Strategic Insights
- Ownership Alternatives
  - Lease
  - Farming Rights
  - Partnership
- Financial Assessment
- Implications
- Q&A

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Strategic Insights

- Farming is two business models – Asset Speculation and Profession
  - Adoption of business models that do not include an equity stake in the land that is farmed is necessary
- Land and Capital are available
- Aligning interests of landowners and farmers is key to procuring land
- An intermediary is needed

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Farming is Two Business Models

Model # 1

Professions

Attributes

- Long-term security in their specialized knowledge & skills
- Owns nothing
- Professional organization (ABA, AMA, AIA)
- Passion for work type

Equity Creation

- Partner aggregation increases the number of clients and diversifies areas of specialization
- Internal markets through partner buy-in

Difference

•Sustainable farming does not require a license (i.e. doctors, lawyers, architects)

•For sustainable farmers, their products must grow out of their assets (the land)

Sustainable Farming

Attributes

- Crop rotations, soil enrichment, and product distribution
- Farm land and farm improvements
- Professional organization e.g. PASA
- Passion for land, outdoor style and farming

Equity Creation

- Partner aggregation can be achieved through farming co-ops
- Internal markets can be achieved by giving each farmer an interest in all farms represented within the co-op

Farming is Two Business Models

Model # 2

Asset Speculation

Attributes

- Capital intensive, usually requiring other people's money
- Diversification

Equity Creation

- Buy low / sell high
- Invest to add value to the asset
- Risk that asset will lose value is on the speculator

Difference

- **Reasons other than buy low/ sell high and adding value to land**
- Beneficial for farming operations
- A place to call home
- Improve farming operations,
- Decrease the cost of farming operations
- **Farmers lack expertise in assessing the value of land.**

Sustainable Farming

Attributes

- Purchase of land requires a large amount of capital
- For most farmers, capital requires a loan or investment of other people's money

Equity Creation

- Land appreciation
- Farm Improvements
- Adding buildings (house, barn, etc.)

Availability of Land and Capital

- Land is Available
  - Land Trusts, Corporate Parks, Municipalities and Individuals are sources
  - Aligning interests is critical
  - Growth rate of real estate development has slowed [a]
  - Agricultural easements bring down land costs, making it more accessible to sustainable farmers
- There is early interest from capital investors regarding sustainable agriculture [c]
  - Ability to produce a steady, if not market-level, rate of return
  - Desire to do social good with investing activity

[a] Advisor (Township)
[b] Montgomery County Farm Preservation Plan: http://planning.montcopa.org/planning/cwp/fileserver,Path,planning/pdf_files/openspaceplan2005ch5-6.pdf,AssetGUID,8267102e-d39b-4349-a00ccfe282b08fbc.pdf
[c] Investment Advisors

Alignment of Interests: Secondary Benefits

- Secondary Benefits of Sustainable Farming (e.g. Carbon sequestration, soil improvement, and ecosystem enhancement) are not highly valued by the market
  - 0.6 tons of carbon sequestered per acre of soil annually [a]
  - In 2008, 1 ton of carbon offset in the United States has traded at an average of $7.34 ($293.60/year on a 40-acre farm) [b]

- The value of secondary benefits is growing due to a sense of social responsibility [c]

[a] Hill, J. S. (2009). Agriculture, Climate Change, and Carbon Sequestration. NCAT, Inc.
[b] http://weflyclimateneutral.com/newsblog/post/2009/06/Voluntary-carbon-markets-double-in-size-and-value-in-2008.aspx
[c] Landowners engaged in sustainable farming

An intermediary is needed

- Farmers and landowners find each other through word-of-mouth and informal contacts [a]
- Many landowners express a frustration with not being able to find qualified farmers [b]
  - Need to find experienced farm managers
  - Need to have a national draw
- Need to allow farmers and landowners to do an initial screening of one another
- Qualified farmers are in high demand, and they need a place to market themselves

[a] Landowners and Farmers (Various)
[b] Landowners

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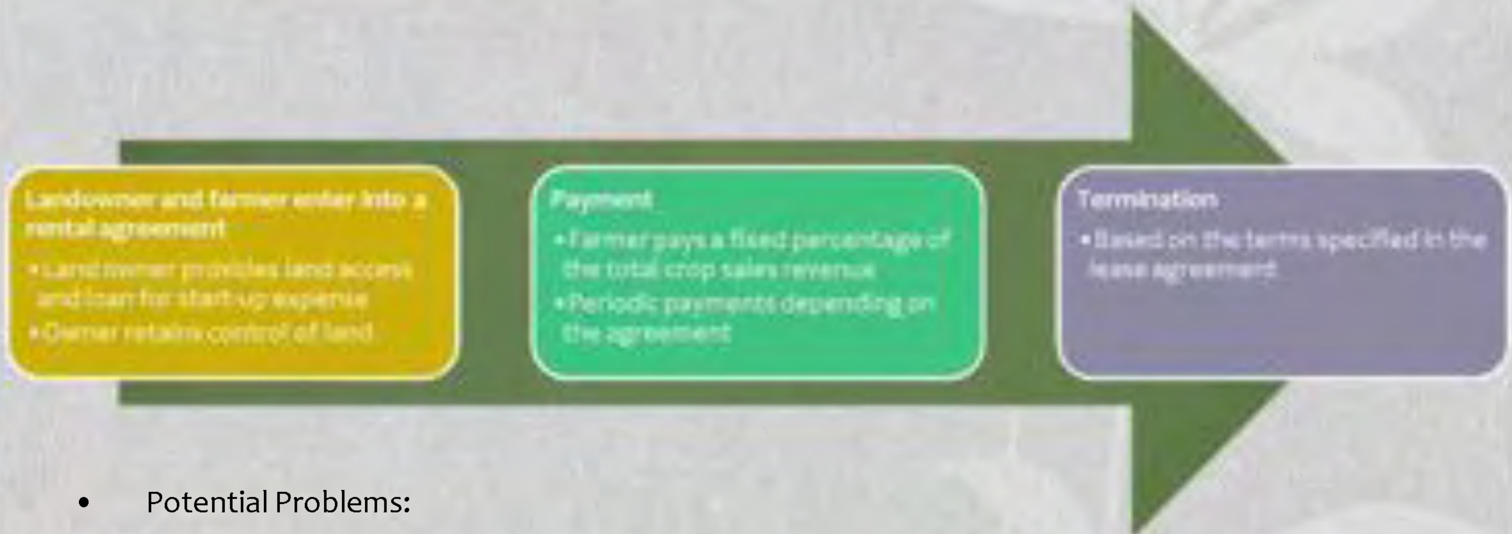
Alternatives to Owner Operated Farms:
Lease



- Potential Problems:
  - No long term security for farmer
  - Farmers are still suffering from the increasing land cost

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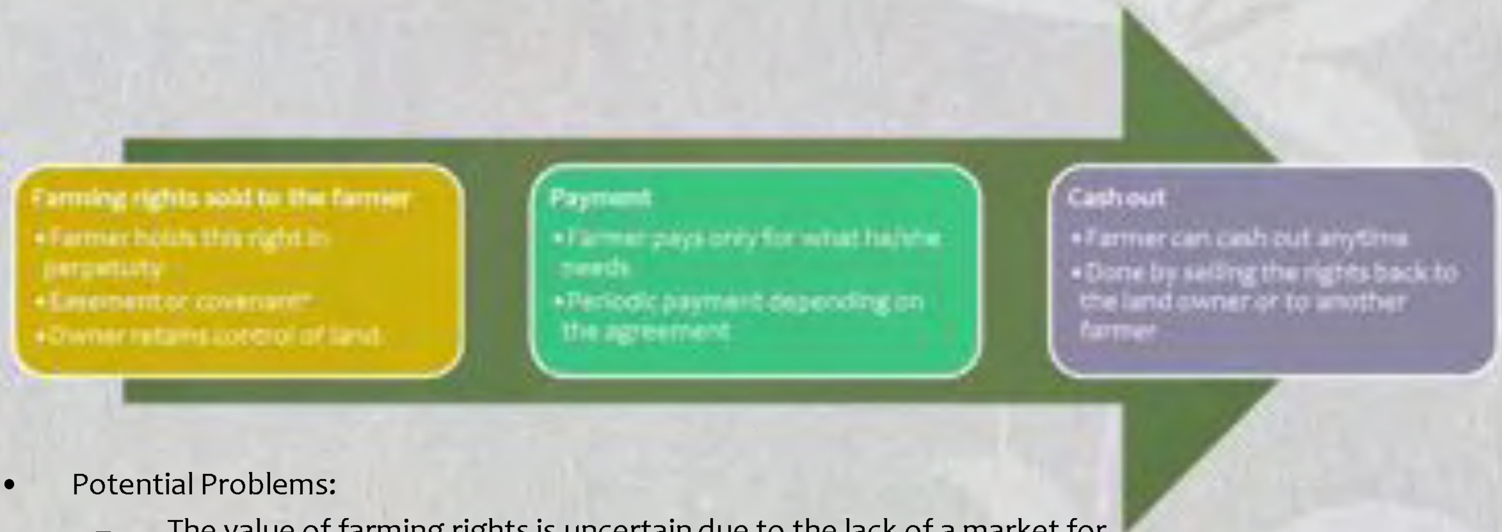
Alternatives to Owner Operated Farms:
Farming Rights



- Potential Problems:
  - The value of farming rights is uncertain due to the lack of a market for these rights
  - Because farming rights would preclude many other uses of the land, the landowner is giving up a lot, which may make the farming rights expensive

[a] PA JUR Property §§ 17:1, 18:1, 2, 4-7, 14

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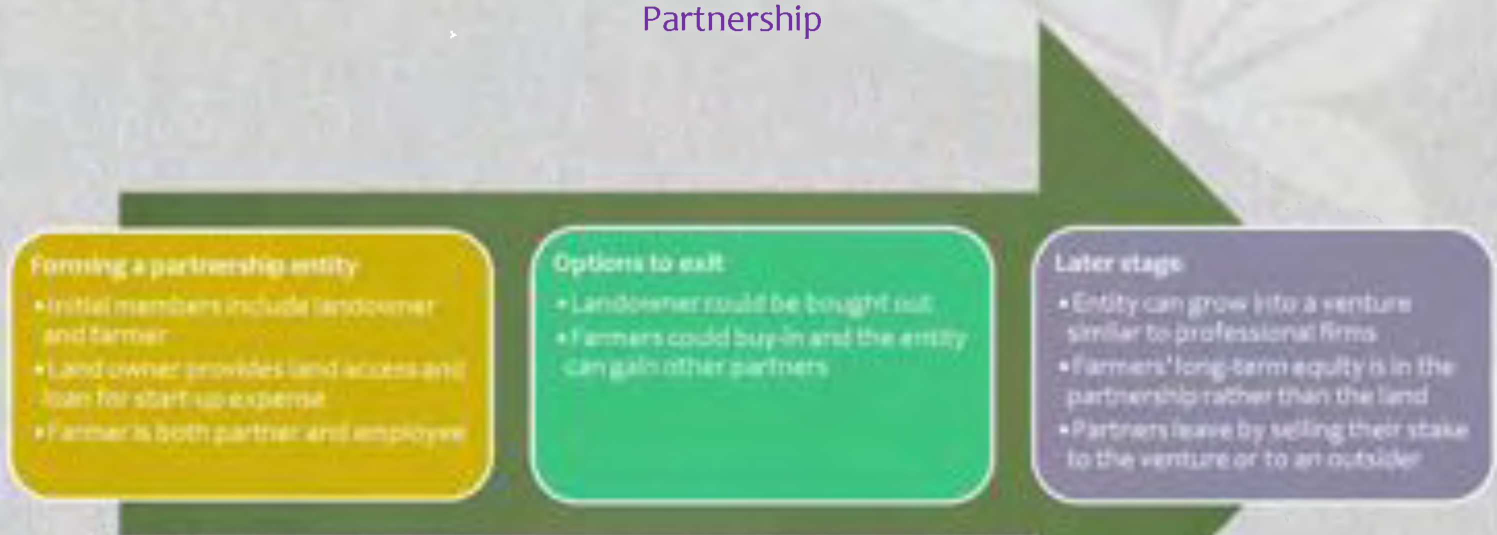
Alternatives to Owner Operated Farms:

Partnership



- Potential Problems:
  - Inability of the partnership to generate enough revenue to buy-out exiting partners
  - Acquiring start-up capital requires someone other than the farmer to take a risk

Financials:
Universal Assumptions

- Sustainable farm revenue = $8,000 per acre (10 acres)
  - Years (1-5) = 20% growth rate
  - Years (6-10) = 5% growth rate
- Agricultural Inputs' Expenses = 60% of revenue
- Administrative Expenses = 10% of revenue
- These vary from farm to farm, but are research based
- Proprietary financial models are being developed for PASA under contract with The Fox School of Business Enterprise Management Consulting Program

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Financials:
Scenario Specific Assumptions

Factors	Own - Market Value	Own - Land Under Ag Easement	Farming Rights
Price per Acre	$45 200	$18 500	$37 007
Mortgage Rate	6%	6%	6%
Down Payment (Assume 5% of land cost)	$22.600	$9.250	$18.503.50
Mortgage Payment for 10 Acres at 6%	$2 574 47	$1 053.71	$2 107.83
Taxes, Property and Mortgage Insurance (Assume 15% of Mortgage Payment)	$386.17	$158.06	$316 17
Total Mortage per Acre	$2.960 64	$1 211.77	$2.107 83
Annual Mortgage (plus taxes and insurance)	$35.527.69	$14.541.20	$29.088.00

- **Lease:** Lease Rate = 3% of total revenue, Appreciation Rate of investments = 6%
- **Partnership:** Performed Discounted Cash Flow analysis on 10 years of projected free cash flows using a discount rate of 10% and a terminal growth rate of 3%
  - 50% of the valued business goes each to the farmer and the landowner
  - Annual earnings are split 50-50 between the landowner and the farmer

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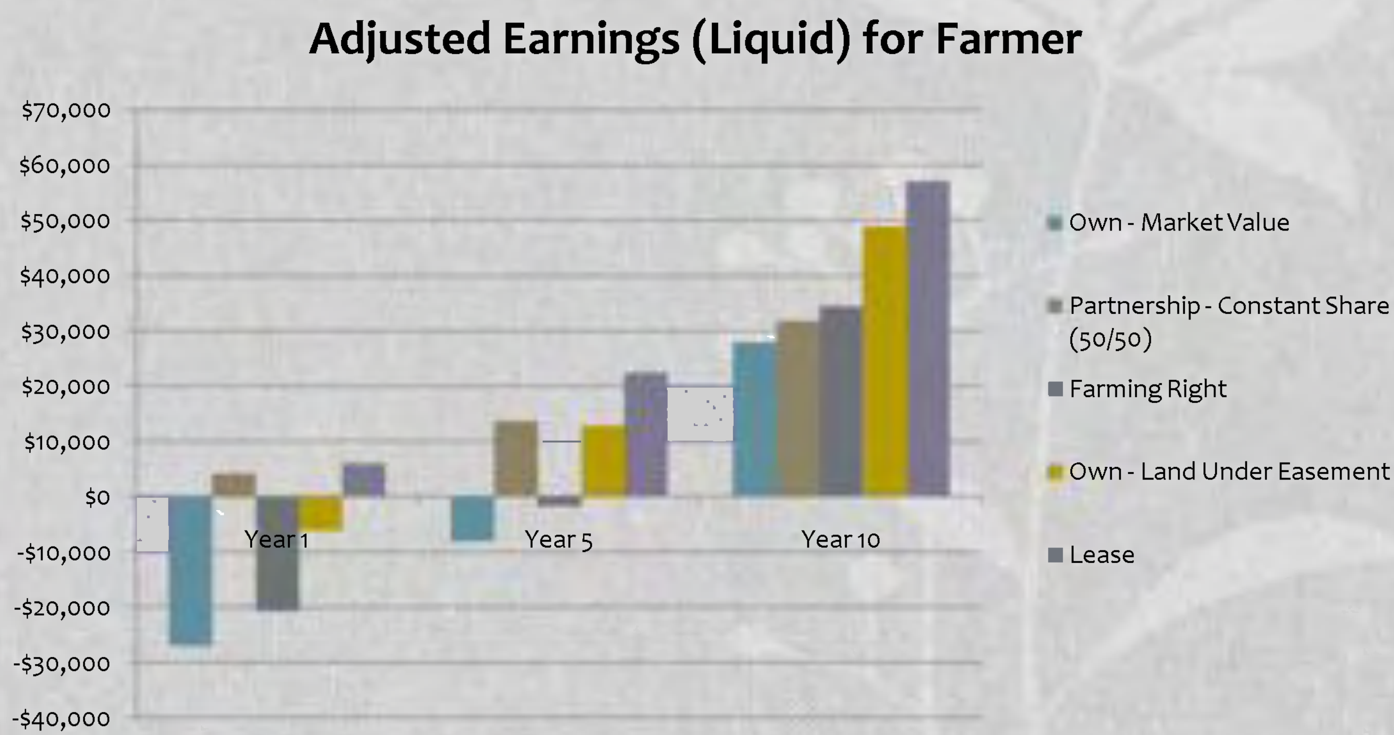

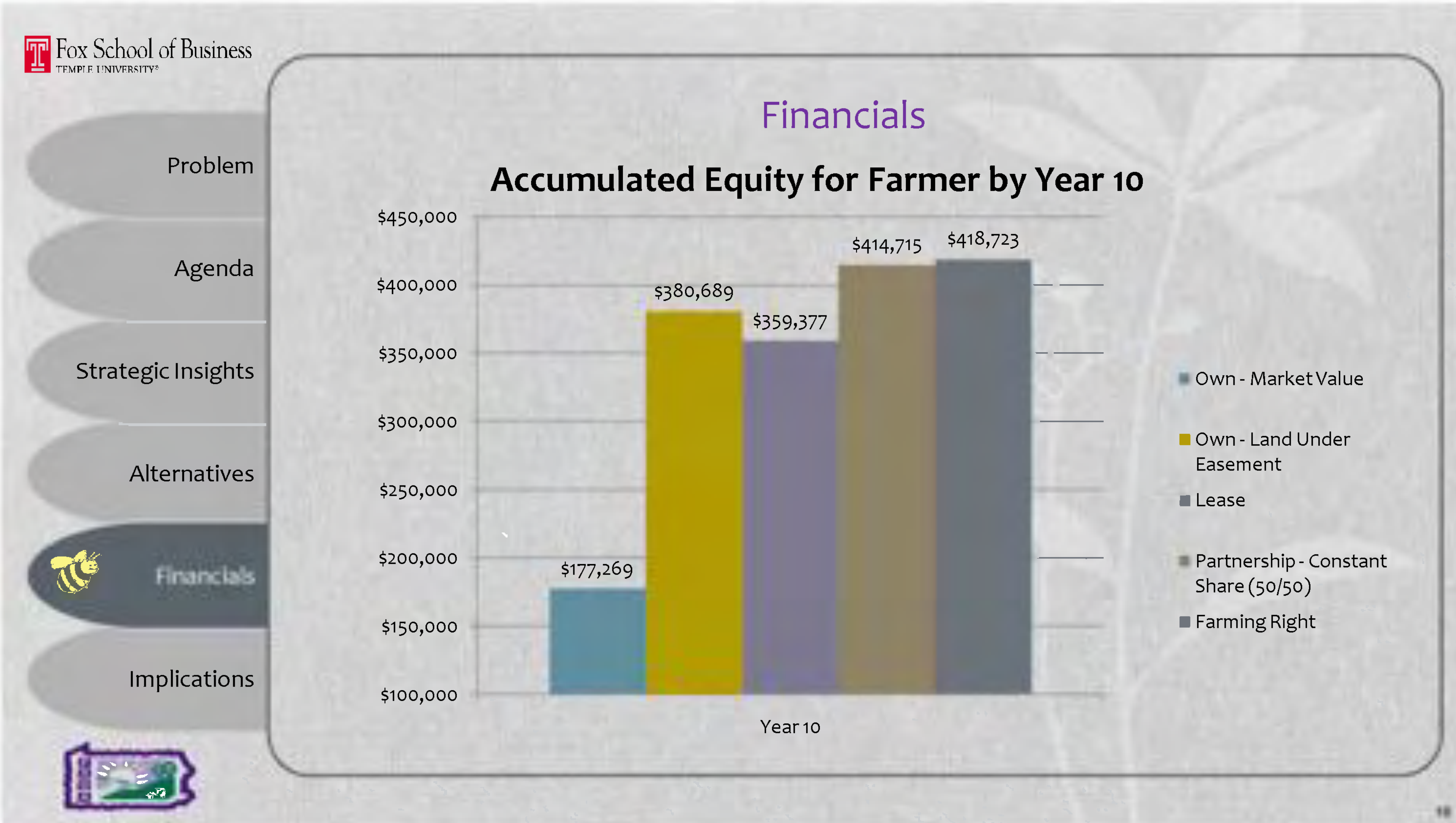
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Accumulated Equity for Farmer by Year 10
$450,000
$400,000
$350,000
$300,000
$250,000
$200,000
$150,000
$100,000
$177,269
$380,689
$359,377
$414,715
$418,723
Year 10
Own - Market Value
Own - Land Under Easement
Lease
Partnership - Constant Share (50/50)
Farming Right

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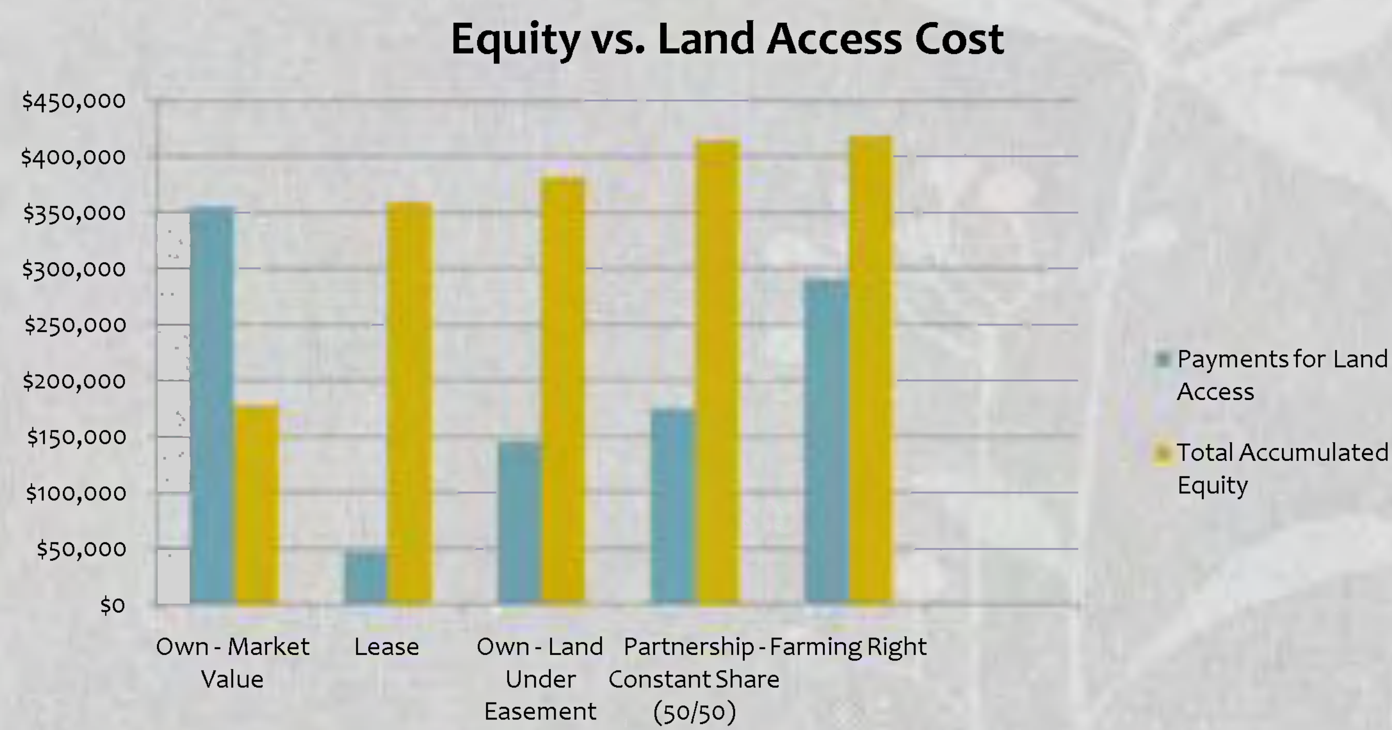

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In order to make sustainable farming successful in Southeastern PA, farmers must

- Be able to align their interests with the interests of landowners
- Take advantage of those secondary benefits that influence the market
- Be willing to adopt business models that do not include an equity stake in the land that they farm
- Have strong advocates acting on their behalf.
  - Some farmers would benefit from assistance negotiating financial arrangements

Towards A Fruitful Equity Model!

Family Farm Series Publications: Farm Management

Farm Leases and Rents

(The author is Kent D. Olson, Economist, Cooperative Extension, UC Davis; revised by Christie Wyman, Small Farm Center, Cooperative Extension, UC Davis.)

Leasing or renting land is important in California agriculture. For many farmers, a lease or rental agreement may be the best method to control more land resources. Whether you are leasing or renting depends on the time length of the agreement, local tradition, and other factors. The terms "leasing" and "renting" are used interchangeably in this publication.

Types Of Leases

There are two main types of leases: cash rent and crop-share. The major differences between these two types is how risk is shared between the owner and the lease holder. Other types of leases include livestock-share, labor-share, and flexible-rent leases.

Cash Rent

A cash rent is a fixed payment for the use of land, buildings, and other facilities. The payment is for a specified time period and is set prior to the tenant using the asset. The owner is compensated because he/she expects to earn interest on the investment, pay taxes and insurance, repair buildings and other improvements, and recover depreciation on some assets. In return for paying the owner, the tenant receives all income.

With cash rent, financial risk lies mostly on the tenant. The only risk the owner takes is the tenant not being able to pay the rent. Because it is a fairly stable income, the owner should expect a cash rent lower than the expected return from a share rent agreement. The tenant has all the uncertainty of production and prices; he/she will receive all profits in a good year and all losses in a bad year.

A cash rent agreement will include the amount and terms of payment, the time period, and any restrictions that the owner may place on the use of the land, buildings, or facilities. For land, the time period is usually one year, although an agreement may be multi-year with or without provision to reassess the payment each year. The owner may include restrictions on the maintenance of buildings, fences, canals, etc. Otherwise, the tenant is free to make all operating decisions; the owner usually does not have any management input.

The advantages of a cash rent agreement are:

1. It is simple.
2. The owner is assured of a steady income.
3. The owner does not have to help manage.
4. The tenant has freedom to manage--within the restrictions of the agreement.

The disadvantages of a cash rent agreement are:

1. The owner does not share in very profitable years.
2. An owner may rent to a tenant who exploits the land and improvements, unless restrictions are written into the lease.
3. It is riskier for the tenant; the payment is fixed before production and income is known.
4. A tenant may find the owner slow or reluctant to maintain buildings and facilities unless provisions for maintenance are written into the lease.

A difficulty of the cash rent is determining a fair price. See page 5 of this article for some suggestions.

Crop-Share Lease

With a crop-share lease, the landowner and tenant agree to share the income from the land, but they do not set a specific amount of money. The landowner receives a share of the gross income to compensate for his/her interest on investment, taxes, insurance, maintenance, depreciation, and operating expenses. Usually a crop-share lease calls for shares in gross income equal to shares in total expenses; however, local rates, profit variance, and other factors may have a large impact on the agreed shares.

By receiving a share of income rather than a fixed payment, the landowner takes on more risk than with cash rent. Thus, he/she may seek a higher expected return with a crop-share lease than with a cash rent agreement. Since the tenant shares income risk, he/she does not require an expected return as high as with a cash rent.

When leasing a whole farm, an owner and a tenant may agree to a crop-share lease on the cropland and cash rent on the buildings and facilities. Or, they may set the crop-share lease with the knowledge that the buildings and facilities are included.

The advantages of a crop-share lease are:

1. The uncertainty of production and prices are shared by landowner and tenant.
2. Both parties share in increased income due to new technology and management (e.g., irrigation management, pest scouting).
3. The capital requirements of the tenant are reduced so his/her financial risk is also reduced.
4. A knowledgeable landowner may improve income by participating in operating decisions.
5. The owner has more control over the use of his/her land and other assets.

The disadvantages of a crop-share lease are:

1. The tenant is not totally free to make operating decisions.
2. The tenant has to share during good years as well as bad.
3. If the landowner is not knowledgeable, he/she may lead to unwise operating decisions and decrease income.
4. The landowner may receive a lower return than he/she would have for cash rent in poor income years.

There are difficulties with a crop-share lease. (These are true for all share-rent leases.) The first difficulty is deciding on the equitable share of income. The expenses and share for variable inputs, taxes, insurance, labor, etc. are easy to determine. However, the interest on investment, depreciation, and the cost of new technology (e.g., frost protection) are harder to determine. If a landowner wants a 15 percent return on his money in land, how much should be expected from land price appreciation? If a tenant buys portable heaters for frost protection when frost seldom occurs in the area, how much of that cost should be included?

The process of determining equitable income shares is discussed on page 4.

Other questions that might arise include: Who makes the final decisions when there are disagreements between owner and tenant? How is an equitable payment determined for forage when it is fed to livestock on the farm or ranch? How much should be charged for residences and other buildings used by the tenant? Who should pay for maintenance? Many of these difficulties have to be settled personally between owner and tenant. Then, a fairly standard process can be used to determine shares.

Livestock-Share Lease

A livestock-share lease is similar to the crop-share lease. The difference is the income to be shared is from livestock instead of crops. The terms of livestock-share leases vary more in content than crop-share leases because the resources in buildings and other facilities vary more than land within one area.

The usual terms in a livestock-share lease are for the owner to furnish the land and facilities, the tenant to furnish the labor and most equipment, and for them to share in the investment in the animals. Operating expenses may or may not be shared.

The livestock-share lease is advantageous to the low equity (perhaps new) producer who can use the facilities of a neighbor. The tenant can increase his/her income without large capital requirements.

It is also advantageous to an owner who wishes to retire from direct livestock labor, but still utilize past investments in buildings and equipment. It is a way to share management and perhaps bring new people into the business.

Difficulties with livestock-share leases are the same as those discussed in the previous section on crop-share leases.

Labor-Share Lease

This type of lease is often used by the beginning or low-equity producer. The tenant supplies his/her labor, management, and little or no capital and equipment. (The amount of capital and equipment supplied by the tenant depends on his/her equity and experience.) The labor-share lease can be used for crops or livestock.

The labor-share lease is especially useful for a beginning producer. The tenant is more than a hired worker--he/she participates in management decisions. The tenant encounters more income risk than a hired worker, but also expects a higher return.

The difficulties and process for determining equitable shares are the same as for other share-rent leases.

Flexible-Rent Lease

Sometimes owners and tenants combine cash rent and share-rent leases. These leases are almost as varied as the people who write them. The process for deciding on flexible-rent leases is similar to the process for cash rent or crop-share leases, except for the combination of components. A few approaches used are:

1. Select a fixed amount of the crop (e.g., 30 cwt of rice) and the market price on a certain day to determine the cash payment.
2. Select a lower fixed payment and a lower crop-share percentage

and use both to determine the total payment.

3. Determine the payment based on a formula involving yields, price, and cost indices from the U.S. Dept. of Agriculture or the state reporting service.

These are just three variants. There are variations within the variations. The options on flexible-rent leases are up to the owner and tenant. The basic guideline is that the resulting lease needs to be legal, fair, understood, and written.

Determining The Share Rent

In many instances, the owner and tenant accept the local, traditional shares as the shares in their own lease agreement. This may be a mistake for both sides. In an equitable, long-term agreement, neither side wishes to be at a disadvantage or to put the other at a disadvantage. By reviewing the lease agreement periodically, the shares can be evaluated for fairness and adjusted if necessary.

An equitable rent, as usually defined, is one where owner and tenant share the gross income in the same proportion as they contribute to the cost of production. To establish the fair shares:

1. Determine the contributions made by each party.
2. Assign appropriate values to these contributions.
3. Calculate the total monetary contributions by the owner and tenant.
4. Establish the share of the total costs contributed by the owner and tenant.

Examples of determining the equitable shares in a crop-share lease for chili peppers and zinnia seed are shown in Tables 1 and 2. Individual items, such as seed, labor, interest, depreciation, etc. are listed and specified as owner's, tenant's, or shared expenses. (These are examples; they should not be used to estimate rents in these or other counties.)

In the examples, the operating costs are divided between owner and tenant, the fixed costs of investment and overhead are allocated to owner and tenant, and the share of expenses is determined. An enterprise budget is the best source of the information needed for share rent determination. In the chili pepper example, the owner is estimating a 20 percent contribution to total costs, so the owner's equitable share of the gross receipts is 20 percent. Other conditions may cause the share to be changed.

A basic premise of these examples is that the costs listed are accurate and fair. The cost of many of these items, such as fertilizer and insecticides, can be calculated easily. Other items may be harder to calculate (e.g., the amount of fuel used, the cost to harvest). Still other items involve some arbitrary assumptions, such as the amount of interest on land investment that should be allocated to farming. Both owner and tenant should decide appropriate values of these contributions. Agreement may not be found, but each will have a base for bargaining for the final shares.

This process may yield a share rent that is different from the prevalent rents in the area. This could be due to differences in land quality and micro-climates that cause differences in cultural practices and in land values. Or, in a specific year, the land rent market may be strong or soft, causing the rent to move up or down.

Operating expenses may be shared between owner and tenant. To prevent distortions between their points of view, the owner and tenant should share these operating costs in the same proportion as the gross receipts are shared. If the share rent is 25 percent and the owner is going to pay for part of the fertilizer, he/she should pay for 25 percent of the fertilizer.

Determining The Cash Rent

The same information is needed to determine cash rent as is needed for determining share rent. The first step is to determine the equitable share rent. This serves as an estimate of the maximum cash rent from the tenant's viewpoint. For example, in the chili pepper example, the equitable share rent is 20 percent. Expected production is 4,550 pounds per acre. Thus, the expected value of 20 percent of 4,550 pounds is the maximum cash rent the tenant should consider--barring other land market considerations.

This is the maximum value because the tenant is assuming all of the price and production risk. With a share rent, this risk is shared. With a cash rent, the tenant should expect a higher return for taking more risk, and the owner should expect a lower return for not having as much risk.

As with the share rent, local land rent market conditions may have an effect on the final cash rent decision. In a strong market, the owner holds a larger bargaining position and may raise the cash rent. A tenant may wish to hold onto land even though cash rent is high. However, the tenant cannot pay cash rents that cause expenses to exceed expected cash income.

Share Rent Determination

Description: Chili Peppers in Monterey Co.
(based on cost study by S. Mendivil and E. Yeary)

Expense item	**Total Cost**	**Owner's Share**	**Tenant's Share**

Operating costs:			
Fuel/repairs	$70.73	---	$70.73
Labor	$552.84	---	$552.84
Cover crop (1/3 to peppers)	$40.00	---	$40.00
Listing/fertilizer	$62.00	---	$62.00
Herbicide	$64.00	---	$64.00
Fumigation (1/3 to peppers)	$13.63	---	$13.63
Seed/fertilizer	$44.00	---	$44.00
Water/power	$112.00	---	$112.00
Fertilizer	$73.25	---	$73.25
Insecticide	$36.50	---	$36.50
Harvest	$728.00	---	$728.00
Overhead and fixed costs:			
Business costs	$160.34	$32.07	$128.27
Taxes	$30.00	$25.00	$5.00
Depreciation	$78.80	$33.00	$45.80
Interest	$436.37	$402.00	$34.37
Total Costs:	$2,502.46	$492.07	$2,010.39
Percent Shares	100%	20%	80%

Share Rent Determination

Description: Zinnia seed in Santa Clara Co.
(based on sample costs by N. Garrison & L. Horel

Expense item	**Total Cost**	**Owner's Share**	**Tenant's Share**
Operating costs:			
Fertilizer	$25.00	---	$25.00
Furrow custom	$8.00	---	$8.00
Herbicide/application	$13.00	---	$13.00
Seed	$20.00	---	$20.00
Thinning/hoeing	$100.00	---	$100.00
Sulfur/application	$27.00	---	$27.00
Machinery costs	$51.82	---	$51.82
Irrigation power	$53.25	---	$53.25
Labor	$87.95	---	$87.95
Interest on Operating Caiptal	$12.14	---	$12.14
Custom harvest	$100.00	---	$100.00

Overhead and fized costs:			
Taxes	$54.26	$40.00	$14.26
Interest	$264.56	$233.00	$31.56
Depreciation	$54.75	$14.00	$40.75
Management	$300.00	---	$300.00
Total Costs:	$1,171.73	$287.00	$884.73
Percent Shares	100%	24%	76%

A Leasing Checklist

Any time two or more parties join together in a business arrangement, dissatisfaction or disagreement is possible. Some problems can be avoided by planning ahead. Key points to consider in leasing arrangements are:

1. Make sure there is economic gain for both owner and tenant. Without a profit, somebody will be unhappy and the arrangement will likely fall apart after a year or two.
2. Put the lease in writing! A written lease protects the heirs if one of the original parties dies. In case of a dispute, a written lease prevents many legal problems by forcing all parties to consider explicitly the terms they are agreeing to.
3. Make sure the lease provides for legal protection for both parties. Neither owner nor tenant wants the agreement construed as a partnership.
4. Make sure all parties have agreed on the contribution each is to make to the leasing arrangement.
5. Keep accurate and complete records and have all parties agree on who should keep them.
6. Decide which party has responsibility for which jobs or enterprises.
7. Agree on a means for sharing expenses and production. Try to share the production income equitably; misunderstandings will be reduced.
8. Agree on the responsibility for maintaining buildings, facilities, and soil fertility.
9. Discuss and decide who will be the "topman" when it comes to finalizing decisions on how differences in opinion will be resolved.
10. Decide when a settlement of business earnings or rent will be made.
11. Decide how the lease holder is to be compensated for improvements if he/she breaks the lease before the asset is depreciated out.
12. If desired, decide when and how the lease can be automatically renewed and how the rent can be renegotiated or recalculated.

Back to Farm Management

Chapter III

Farmland Tenure and Leasing

By Annette Higby

Land Tenure Patterns in Vermont

The latest U.S. Census figures indicate that nearly 40 percent of Vermont farmers lease land or operate under some other form of non-ownership tenure.[1] Thirty-three percent of the farms reporting in the 2002 Census in Vermont characterized themselves as "part owners" who own part of their farm and rent part of their farm. Six percent of the farms identified themselves as "tenants"[2] who rented all of their farmland.

In 2002, 295,082 acres of Vermont farmland were farmed under some form of non-ownership tenure — a great deal of it under an oral or written cash lease.[3] The Census doesn't include data on the terms of these leaseholds. Nationally, and perhaps in Vermont, an annual and oral cash lease that can be terminated at the will of the landowner is the norm. Vermont tenant farmers may fare better because in some instances, landowners must have a written three-year lease with a farmer to qualify for Vermont's agricultural land use value program, which is known as "current use."[4]

The terms of non-ownership tenure can have a tremendous impact on how property is cared for and used. Recent studies confirm what we all know intuitively — oral and year-to-year leases offer little incentive to use resource-conserving farming practices, while long-term leases that offer relatively secure tenure stimulate good management.[5]

Insecure tenure can either complicate the planning horizon of beginning and landless farmers or provide needed flexibility for a new operation just finding its niche. Whether help or hindrance, a short-term, oral lease is often the only way a beginning farmer can gain access to land. Rising land values — farmland valued on average at $1,138 an acre in 1988 was worth $2,704 an acre by 1999[6] — make leasing an essential start up strategy.

Beginning farmers are competing for land not only with established farmers but also with non-farmers who want to own a piece of rural Vermont. In 1999, USDA estimated that 30 percent of Vermont's croplands, pastures, and forested woodlands was owned by what they call "non-operators," landowners not involved in farming their property. In 1988, the figure was just 8 percent.[7] A significant share of Vermont's productive resource base is now owned by those who do not work it and worked by those who do not own it. This land tenure pattern — which is even more extreme in other parts of the U.S. — has consequences. It affects the way the land is used, the care it is given, and even extends into the quality of community life. Rural sociologists report that communities with high rates of farm tenancy have weaker social institutions than communities characterized by farm ownership.[8]

Giving beginning farmers a chance of success has always required a public investment. The Farm Services Agency has historically provided credit to farmers who were starting out and who were "unable to obtain credit elsewhere." Since the 1930s, FSA has been the lender of last resort and, as such, has made farm ownership a reality for thousands and thousands of farm families. However, the current level of public commitment to providing economic opportunity and entry into agriculture leaves much to be desired. In 1997, FSA's share of lending in the Northeast had dwindled to 6.7 percent — not much ahead of implement dealers as a source of credit. Annually, FSA in Vermont makes an average of one to two direct farm ownership loans to beginning farmers. Some FSA funds allocated for guaranteed loans for beginning farmers — where FSA bears 90 to 95 percent of the risk of default for commercial lenders — have gone unused.

Rising land values, a dearth of credit, and the narrow profit margins earned by conventional farming have conspired to make leasing or some other form of non-ownership tenure a fact of life for most beginning farmers.

Vermont's Land Use Value Program (Current Use)

Vermont's land use value[9] program, most often referred to as Current Use, provides tax incentives aimed at keeping the Vermont landscape in active agricultural use.

For qualifying farm and forest land, there are several tax benefits:

- Farmland enrolled in current use is valued for property tax purposes as if it were "required to remain henceforth in agricultural or forest use" rather than at its highest and best use or as property that could be developed.
- Farm Buildings on enrolled land are valued at zero for property tax purposes.
- Transfers of property enrolled in the property pay the transfer tax at a lesser tax rate than other property if the property remains enrolled for three years.[10]

To qualify, agricultural land exclusive of a two-acre home site must be at least 25 acres in size, with one exception described below, and must be in "active" agricultural use. The land is presumed to be in agricultural use if it is owned by a farmer or is leased to a farmer under a three-year lease. A "farmer" is anyone who earns at least 50 percent of gross income from farming.

Farmland, including parcels less than 25 acres, may qualify under an income test as well. Smaller parcels that produced an annual gross income from the sale of farm crops of at least $2,000 in one of two, or three of the last five calendar years can qualify. Larger parcels – more than 25 acres – must generate an additional $75.00 per acre for each acre over 25 or a total of $5,000, whichever is less. In recent years, the legislature has amended the current use statute to include a broader definition of "farmer" and "farm crops." For example, the statute now provides that a farmer is also one who produces farm crops that are processed on the farm and whose gross income from the sale of processed products, when added to other gross farm income, is at least one-half of all of his or her gross annual income. Seventy-five percent of the processed product must be produced on enrolled land.

Farm crops now include animal fiber, cider, wine, and cheese processed from products produced on the farm as well as the more traditional crops of hay, cultivated crops, pastured livestock, fruit trees, and maple syrup production.

The definition of farm buildings has also expanded to include not just those structures actively being used in the farming operation, but also up to $100,000 in a farm facility used for processing farm crops, provided a minimum of 75 percent of the crop is produced on the farm.

When land that has been enrolled in current use is developed or subdivided, a land use change tax is imposed upon the owner. As of July 2006, the tax is equal to 20 percent of the full fair market value of the land that is changing use or 10 percent if the land has been enrolled in current use for 10 years. If only a portion of the land is changing use, the fair market value is prorated. There is a provision for the reduction of the land use change tax if the change in use was the result of the death or incapacity of the farmer.[11]

Vermont's land use value program seems to undergo legislative revision on a regular basis. It's important that you look at the current statute rather than materials that may be out of date. The general information available on the Vermont State Department of Taxes Website on current use, for example, hasn't been updated since 2002.

The Value of a Lease

The relationship between the landowner and the farmer is always more important than the written document, but a written agreement can give the relationship a more solid footing. If the relationship sours, a written agreement can settle some of the many disputes that can arise.

Many farm states in the Midwest have landlord-tenant statutes that govern farm leases. Many of these statutes dictate how and when a lease may be renewed. Some grant the landowner a lien on the tenant's crop to secure the payment of rent. Nebraska even gives an income tax break to non-farming landowners who rent to beginning farmers. These statutes serve to keep disputes out of court by filling in the gaps when the parties have only an oral or "handshake" agreement. Vermont doesn't have a special statute governing farm leases. Nor does it have a beginning farmer tax break or a landlord lien. Most of Vermont's law governing the landlord-tenant relationship – with the significant exception of residential leases – is governed by judge-made law or case law.

In the absence of a written lease, the courts look to certain statutes and previous cases to settle a dispute. It's much simpler and much, much less expensive to have a written lease.

Get it in Writing

Vermont law, as well as laws of most other states, requires that certain kinds of agreements be in writing. These laws are known as the "statute of fraud," and they almost universally say that agreements regarding real estate are unenforceable in court unless they are in writing and are signed. The Vermont statute of frauds[12] has been interpreted by the courts to apply even in cases where the other party admits that there was an oral agreement.[13] If the agreement isn't in writing, a Vermont court will not enforce it.

The statute of frauds applies not only to the original lease but also to any significant amendments to the lease agreement. Amendments to the lease must also be in writing. If the lease is signed by an agent of the landowner, the authorization from the landowner must also be in writing.

Agricultural Lease Checklist

1. Who are the parties? Is there evidence of ownership and authority to act if the landowner is an entity such as a Partnership, LLC or Corporation rather than an individual? Is the tenant an individual or an entity? Will the lease also bind the heirs or future purchasers of the property?

2. What is the lease term? Will it terminate on a specific date or will it end at the will of one or either party? If terminable "at will," how much notice will be given to the other party?

3. Is the lease renewable? Is renewal automatic? Do both parties have the option to renew or not renew? What is the procedure for renewing the lease?

4. Does the lease include an adequate description of the property – land, farm structures, residence, equipment, and livestock – that is to be leased?

5. How much and what type of rent will be paid and how and when must it be paid?

6. If the agreement includes a residence, is there a separate residential lease?

7. What are the allowable and prohibited uses of the property under the lease? Does it allow interns to be housed on site or a farm stand operation?

8. How will the landowner and the land user allocate responsibility for repairs and maintenance of the property?

9. How will the landowner and farmer allocate responsibility for capital improvements? If the land user invests in capital improvements, how will he or she be compensated at the end of the lease? Or, does the rent reflect those capital investments?

10. Who will be responsible for obtaining and maintaining insurance – liability, casualty, and crop?

11. What actions by either party will constitute a default under the lease? Will the non-defaulting party have the right to terminate the lease or withhold rent until the default is cured? Will the lease include an alternative dispute resolution procedure such as mediation or arbitration?

Essential Terms of an Agricultural Lease

Parties to the Lease

The lease must effectively bind the actual owner of the property. If the land is owned by a limited liability company, for example, the lease must be signed by a member of the LLC with the authority to bind the company. If the land is held in a trust, the lease must be signed by the trustee of the trust. You can find out who owns the property by looking at the deed in the town records. Tenants who are organized as limited liability entities may be asked to sign the lease as individuals and to be personally liable for the rent.

Parties to the lease may also bind the "heirs and assigns" of each party, meaning that the lease will remain in effect even if the landowner passes away or the property is sold to another. To effectively bind third party purchasers, however, the lease or a memorandum summarizing the lease must also be filed in the town land records.[14]

The Lease Term

A lease term that allows a farmer to reap the benefits of soil-saving or other conservation practices can benefit both the landowner and the farmer. A lease term of at least three years will also ensure eligibility under Vermont's Current Use program.

If the lease is to be terminated at the will of the other party instead of a definite term, an appropriate notice period should be included in the lease. A six-month notice period seems typical for most farm leases but may not be adequate given the nature of the farm and the farm business. A six month notice allows the tenant time to find a suitable replacement property.

Renewal terms and methods of notice of intent to renew or not renew should also be specified in the lease.

Setting the Rent and Types of Leases

Many factors can help to determine a rental rate for Vermont farmland or farm buildings. Facility rent – a dairy barn, for example, is frequently set on a per head or per stall basis and not surprisingly, rises and falls with the price of milk. Dairy barn rental rates, however, haven't risen much since the 1970s in Vermont and still hover around $10 to $15 per stall. Whole farm rent may be based on the landowners' desire to cover all or a large portion of their land costs—real estate taxes, insurance, repairs, and depreciation. A common formula to determine rent is "DIRTI" or Depreciation, Interest, Repairs, Taxes and Insurance. Some landowners set a whole farm rental based simply on the residential rental value of the property or what they could get by renting to a non-farmer commuter with no interest in using the farmland. Rent can also be set based on the market rental rates for comparable farm land in the area or a combination of all these factors. Extension agents and local farmers will have an idea of average land rents in their area.

Some landowners will accept a lower than average rental amount because of their belief in the social benefits of local food production or providing an opportunity to a beginning farmer. Others accept a lower rent if the farmer can help them meet stewardship goals for the property. For example, allowing a farmer to hay a meadow for free can save a landowner the expense of mowing it and putting livestock on pasture can control weeds, add nutrients, and improve the property.

Most Vermont leases are straight cash leases – in return for a specified payment, the farmer has use of the property for a specified period – but there are many alternatives to the cash rent lease, as discussed below.

Crop/Livestock-Share Rent

In a crop- or livestock-share rent, the farmer and landowner share both the expenses of bringing the crop to market and the profits. A share lease, for example, may split the production costs and profits 50/50 or by some other negotiated split. Crop-share leases are more common in the Midwest, but their advantages for beginning farmers are equally applicable in Vermont. A crop- or livestock-share arrangement can significantly reduce a farmer's annual outlays in cash rent, interest, and other production expenses. A share lease also shifts some of the risk of profit or loss to the landowner.

Flexible Cash Rent

Flexible cash rents are a hybrid between a straight cash lease and a share lease. A "base" cash rent is set that assumes low production and a low commodity price. If actual production and prices exceed the base, the landowner receives a share of the additional profit. The base rent can be set to just cover the landowner's fixed costs or the fixed costs plus a modest return. Flexible cash rent can reduce the risk for the farmer and reward the landowner in good years.

Net-Share Leases

In a net-share lease, the landowner is entitled to a specified share of the farm's crop in payment as rent. If the farmer has a good year, so does the landowner. However, the farmer bears most of the production expenses. Net-share rent options are most often associated with cash-crop farming, but they can also be used in dairy, fruit, vegetables, and hay.

Taxation of Rental Income

The IRS treats rental income from farmland differently than it does other kinds of rental income. The difference is that landowners who **materially participate** in the production of crops or the management of the farming operation must include the rental income in earnings subject to self-employment tax. However, landowners who do not materially participate do not have to pay a self-employment tax on that rental income. Government payments that a landowner receives as a result of a crop-share tenant's participation in a government program may also have to be included in self-employment income.

Definition of Material Participation

According to the IRS 2002 "Farmer's Tax Guide," a landlord materially participates if the arrangement with a tenant specifies the landlord's participation and he or she meets one of the following tests:

The landlord does any three of the following.

- Pays, using cash or credit, at least half of the direct costs of producing the crop or livestock.
- Furnishes at least half the tools, equipment, and livestock used in the production activities.
- Advises or consults with the tenant.
- Inspects the production activities periodically.
- The landlord regularly and frequently makes, or takes an important part in making, management decisions that substantially contribute to or affect the success of the enterprise.

- The landlord works 100 hours or more, spread over a period of 5 weeks or more, in activities connected with agricultural production on the rental property.
- The landlord does things that, considered in their totality, show that he or she is materially and significantly involved in the production of the farm commodities on the rental property.

Landowners who provide production financing or a significant percentage of the tenant's equipment and who periodically inspect the property to ensure that agreed-upon farming practices are being followed are more likely to be considered material participants.

Residence on the Farm

When a residence is included in the rental agreement, a farm lease necessarily takes on both commercial and residential elements. Vermont law regulates residential rental agreements to ensure safe and habitable living conditions for tenants. The Vermont statute sets certain minimum standards that cannot be modified by a lease. The law requires that the premises be safe, clean, and fit for human habitation. For example, residences must have adequate heat, hot and cold running water, and comply with applicable building housing and health regulations.[16] By the terms of the statute, any lease that tries to avoid this duty shall be unenforceable and void. Farm leases are not exempted from complying with the residential rental agreement statute. Farm tenants, therefore, have the same rights to safety and habitability as other tenants, no matter what the lease says.

Allowable and Prohibited Uses

The lease should specify any uses of the property that may be permitted, prohibited, or conditional. Landowners may want to specify whether the land is to be limited to certain types of production, e.g., only pasture or hay land, or if there are other restrictions or requirements regarding uses appropriate to the soils or topography of the farm. It's appropriate to attach a map to the lease indicating where certain practices are allowed or prohibited or indicating a preferred crop rotation.

Farmers should include specific authorization in the lease to conduct those activities essential to the success of their operation. If a farm stand, housing interns, or making and selling compost from the farm property is part of the farm plan, be sure that it is part of the lease.

Leases often "incorporate by reference" statutory or regulatory prohibitions of certain farm practices. For example, leases typically require the tenant to adhere to Vermont's accepted agricultural practices. A lease for land that has been "conserved," or protected by an easement or "conservation restriction," is likely to include a provision requiring the tenant to comply with the terms of the easement. Landowners may also require compliance with USDA/NRCS farm conservation plans or those of another USDA program. Leases for farms enrolled in Current Use Real Estate Tax Abatement programs typically require that the tenant refrain from any practice that would jeopardize eligibility for the program.

Landowners may also ask tenants to refrain from activities that would trigger Act 250 jurisdiction or go beyond the agricultural exemption from zoning. (See Water Quality and Environmental Regulation, Chapter VI, page 113.)

Repairs and Maintenance

In practice and at common law, the farm tenant is most often held responsible for routine repairs and maintenance. The landowner, however, is often responsible for major repairs, rehabilitation, or replacement of farm structures or systems such as:

- Structural components including barns and fences
- Exterior siding
- Roofing
- Water supply systems
- Waste treatment systems
- Heating and ventilating systems

The tenant is frequently responsible for necessary routine maintenance and repair of systems, such as annual servicing, repainting, or staining, in order to prevent their deterioration.[17]

Repairs and maintenance are fertile ground for disagreements and disappointments between landowner and farm tenant. The landowner wants the property to remain in good repair. The tenant with a short-term lease isn't motivated to make investments that may primarily benefit the landowner. A longer lease, an annual "walk around" with a check list, and an annual limit on expenditures expected of the farm tenant may minimize some of the problems that can arise in this area.

Capital Improvements

Capital improvements include everything from constructing or renovating permanent farm structures, installing soil conservation structures, erecting permanent fencing, and tiling fields to practices or soil amendments that build long-term soil fertility. Vermont farm land or farm buildings left idle for long periods often require a significant investment of labor and money to bring back into productive and profitable use. These are the properties most commonly available to beginning farmers. Properties leased under year-to-year leases for many years can share some of the same characteristics as property that has gone unfarmed for many years.

Properties that require significant capital investment before profitable farming can even begin require special caution. Beginning farmers, many of whom are so excited about their first opportunity to farm that they can't wait to "improve the place" need to make a realistic assessment of the economics of farming a property that requires a significant investment of human or financial capital.

Permission

Tenants should never undertake a capital improvement without the consent of the landowner. Ideally, needed capital improvements should be discussed on an annual basis along with repairs and maintenance. Farmers should describe the needed improvement—its location, construction methods, and other important factors—in writing and ask the landowner to sign this document to indicate agreement. The document should also indicate the landowners' and farmers' respective shares on the expense and labor as well as ownership of the improvement at the end of the lease term.

Severence

In instances where the tenant wants to construct a removable structure such as a greenhouse, the lease can allow the tenant to remove the structure at the end of the lease period. The lease needs to be specific about the tenant's owning the structure because at common law, any structure on the property, regardless of who bears its construction costs, belongs to the landowner at the termination of the lease. Provisions that name the tenant as owner of a structure and also permit the tenant to remove it at the end of the lease period typically require that the tenant bear the costs of removal and restoring the land to its former condition. The lease may also provide that instead of removal, the tenant has the right to sell the structure to the next tenant.

Permanent Structures

For more permanent structures that cannot be removed, the landowner may be willing to pay for construction or renovation if it will increase the value of his property and provide a long-term financial return. The Use Value Appraisal program in Vermont helps to encourage landowners to keep farm structures on their property in active agricultural use. The Current Use Statute provides significant real estate tax advantages on farm structures. Farm structures on enrolled farms under a three-year lease to a farmer can receive a "use value appraisal" on the farm building of ZERO percent of its fair market value.[18] A landowner can construct a new farm building or make major renovations to an existing structure without suffering a big jump in the real estate tax bill. Farm buildings include farm improvements used as part of the farming operation including up to $100,000 in value of structures used for processing the farm's crops and housing for farm labor. It does not include the farmer dwelling, however.

A tenant may be willing to pay for construction if the lease term is long enough to allow earning an appropriate return on the investment. A lease term that runs for the useful life of the investment would allow the tenant to earn a return on the investment. The lease may commit the owner to pay the tenant the depreciated value of the structure at the end of the lease period. The lease may also provide that in the event the landowner sells the land to the tenant, the depreciated value of the structure or other capital improvements be deducted from the purchase price. You can use the applicable IRS depreciation rate for the particular kind of property involved or devise your own based on the property's useful life.

Improving Soil Productivity

Farm tenants continually struggle with whether and how much to invest in the long-term productivity of a leased property. Many farm tenants express frustration that their contributions toward

Repair vs. Capital Improvements—According to the IRS

What's the difference between repair and maintenance and a capital improvement? The IRS has a useful test to help you decide if an expenditure is a deductible repair or a capital improvement. Generally, a repair is an expenditure that keeps the property in its ordinary, efficient, operating condition or restores the property to its original operating condition. A capital improvement, on the other hand, materially enhances the value of the property or substantially prolongs its useful life. Adapting a property to a new or different use is also considered a capital improvement.[19] The tenant can deduct the cost of repairs from annual income when calculating taxes. In contrast, the landowner's costs for any capital improvements are added to his or her tax basis in the property.

Repair generally includes: painting, replacing broken windows, fixing the plumbing or wiring, replacing belts or other equipment parts, repairing feeders or waterers, replacing fence posts, and mending fences. Capital improvements include: replacing an engine, installing new plumbing or wiring, removing and replacing asphalt roofing shingles, installing fencing, or original painting of a property.

improving or sustaining the long-term productivity of the farm's soil go unrecognized. Landowners, on the other hand, sometimes express frustration with their tenants' lack of concern over erosion, water quality, wildlife habitat and the consequences to the soil of planting the same crop in the same field year after year.

Without a doubt, the most important factor affecting stewardship on rental land is the length of the lease. In a 2001 study conducted in Iowa, researchers examined the relationship between farm practices and renting farmland. They concluded that farming on rented land "often presented additional barriers to the adoption of sustainable agriculture."[20] Not surprisingly, sustainable agriculture was defined in various ways, but a common denominator was "a set of managerial practices to limit resource depletion [or to] preserve or sustain the resources."[21]

In some cases, the landowner was reluctant to consider practices such as reducing herbicide use because he wanted the land to look "neat and tidy" or he was worried about lower yields that would mean lower crop-share income or a crop failure and subsequent non-payment of rent.

On the tenants' side, the prevalence of year–to-year, annual rentals posed the biggest barrier to adopting soil-conserving farm practices. The study noted, for example, that "sustainable techniques of production, such as conservation and organic methods, require long-term investments in management and sometimes equipment. The instability of tenure inherent in rental arrangements, communication issues, and conflicting goals for the land may lead to difficulties in adoption even when one or both parties in the landlord-farmer relationship wishes to implement sustainable techniques of production."[22]

Many production and resource conservation practices, such as building the soil's organic matter and establishing riparian buffers, can be time consuming and costly to a farmer. It makes no economic sense for a tenant to invest in a practice that won't show a return until after the agreement has ended. Most farm operations are a complex interaction of economic, environmental, and human systems. In many instances, integrating these systems in a way that balances income and other needs with resource conservation goals is an ideal that can take years to achieve. The longer the agreement, the more incentive there is to perform "sustainable" practices or install conservation measures.

Stewardship and the Farmer's Bottom Line

For some farmers, farming practices that eliminate or minimize the use of chemicals on the farm and protect soil and water resources may lead to increased farm profitability. Farmers who can substitute labor and resource management for purchased inputs will fare better over the long term. Good stewardship, however, can also impose short-term costs and negatively impact the farmer's bottom line. Unfortunately, there are few models for farm tenants who want the lease to reflect these costs or for landowners who want to incorporate stewardship standards into a lease. As described below, the Countryside Initiative[23] developed a model for an income-based approach and a new NRCS program is developing an incentive-based approach to addressing the costs of good stewardship.

Income-Based Incentives

The Countryside Initiative is an effort of the Cuyahoga Valley Countryside Conservancy (CVCC) that is designed to bring idle farm homesteads in the Cuyahoga Valley National Park back into active production. In an effort to provide park and recreation opportunities for the urban dwellers in Akron and Cleveland, the farms were purchased in an aggressive land acquisition effort in the Cuyahoga Valley that began in the 1920s.

CVCC is offering 25-year leases for these farms. The leases set tough stewardship standards, provide income incentives for farmers if they adopt certain farm practices, and encourage enhancing the productivity of the farms. The lease takes a pro-rata, or proportional, share of the farmer's gross farm income for rent. The pro-rata share increases over time as the farm productivity increases along with farm income. In recognition of the time required to establish markets and build the income and productive capacity of the operation, the pro-rata share rises by half a percent over the course of the first ten years of the lease. If the farmer achieves organic certification, the pro-rata share paid to the landowner is reduced by one percent.

A more detailed description of the CVCC initiative in the Cuyahoga Valley National Park along with links to their model lease and requests for proposals are available on line here: http://www.cvcountryside.org/Website/countryside_initiative/cvnp_farming.htm.

Incentive and Cost-Based Approach

Another possible model for rewarding stewardship can be found in a new program created in the 2002 Farm Bill called the Conservation Security Program (CSP). As of the 2006 program year, the CSP is available only in certain watersheds in Vermont; the Otter Creek and West River Watersheds and the Hudson-Hoosic Sub Watershed Basin. It is expected that the CSP will be expanded each year until it is available throughout the state.

The CSP will make payments to farmers who enter into five to ten-year contracts with the Natural Resources Conservation Service, promising to undertake certain resource-conserving farming practices on working lands – cropland, grassland, pasture and forestland that is part of a farming operation. These practices address either soil or water quality resource concerns. Unlike many conservation programs, the CSP does not require farmers to take land out of production. The program also favors farmers who are already using these practices and have already achieved a certain minimum level of conservation. The CSP seeks to "reward the best and motivate the rest." A CSP fact sheet is available on-line at: http://www.nrcs.usda.gov/programs/csp/pdf_files/csp_fs3_05.pdf.

Depending on the contract and the number of resource issues addressed and practices undertaken, CSP payments will include a 5 percent (Tier I), 10 percent (Tier II) or 15 percent of a "base payment" for farmers who are meeting certain minimum conservation standards. The base payment is tied to the average rental rates for the area. In addition to the base payment, the program provides a cost share payment for implementing and maintaining the conservation practices of 75 percent, or 90 percent for beginning farmers. In addition to the base payment and the cost share payment, farmers may also receive certain "enhancement payments" for practices with conservation results that exceed the minimum standards set by NRCS for each respective tier.

For example, a dairy farm in Vermont might receive a Tier 1 base payment for testing soils and manures to manage nutrients, for adopting a rotational grazing system, or for incorporating green manures —all of which will result in the farm's meeting the minimum level of soil and water quality protection set by NRCS on just a part of the farm. Tier II payments might be made available for implementing several practices over the entire farm that reach the higher standard of resource conservation for Tier II payments, as set by NRCS, and agreeing to adopt at least one additional practice by the end of the contract. Tier III payments would be made to farmers who have addressed all of the farm's soil and water conservation concerns to standards set by the NRCS Field Office Technical Guides for Tier III. Cost share and enhancement payments would be made where the farmer exceeded the minimum NRCS standards for each Tier.

Eligible practices include crop rotations, cover crops, tillage practices, prescribed grazing, providing adequate wind barriers, using filter strips, terraces, grassed waterways, managed access to water courses, and nutrient and pesticide management.

The CSP is still evolving and payment formulas and other aspects of the program are likely to be modified as NRCS and farmers gain experience with the program. The program's relevance in the leasing context is that the CSP strives to put a dollar value—the base payment—on meeting certain measurable conservation standards set by the NRCS. It also tries to quantify the costs and benefits of maintaining a particular conservation practice and to reward additional conservation efforts through enhancement payments. A table of stewardship payments for the West River watershed for example, can be found at: http://www.vt.nrcs.usda.gov/programs/CSP/CSP_2005/Stewardship%20Payment%20Rate%20West%20River.pdf.

A table of costs for implementing and maintaining certain enhancement practices in Vermont can be found at: ftp://ftp-fc.sc.egov.usda.gov/VT/Programs/CSP/CSP_2006/Vermont_2006_CSP_Cost_List.pdf.

The CSP's relevance in the leasing context is that it tries to place a value on the farmer's efforts to conserve soil and water. However, the CSP program is complex and payments will be based on actual conservation performance as measured by NRCS professionals. But its tables and rates may provide at least a basis for negotiation between a landowner and conservation-minded tenant as they set a rent which rewards and compensates the farmer for contributions to soil and water conservation. In conjunction with NRCS conservation plans that aim for a Tier I, Tier II, or Tier III level of conservation, the various rate tables might be more meaningful – and measurable.

Avoiding "Waste"

The case law or judge-made law in Vermont imposes certain minimum stewardship standards on farm tenants. Under the common law, farm tenants in Vermont have an implied duty to farm in a "good and husbandlike manner" and to return the property to the owner in substantially the same condition as when their occupancy began, reasonable wear and tear excepted. Tenants who breach this duty can be held liable for "waste," which is damage done by the tenant beyond ordinary wear and tear through unreasonable or improper use, abuse, or mismanagement. The courts in Vermont have found a tenant liable for waste where alfalfa was overgrazed and damaged, where water lines were left to freeze, where equipment was not maintained, and where fences were not kept in good repair.[24] Because this duty of good husbandry is implied under the common law, a tenant can be held liable for waste without a written lease.

Insurance and Liability Issues

The rules governing the landowner's and the land occupier's responsibilities to third parties are complex. Vermont follows the traditional approach to landowner liability that imposes varying standards of care depending on whether the injured third party was a "business invitee," a "social invitee," or a trespasser.

The law imposes liability on the "possessor" of the land, or the party who occupies or controls its use and maintenance. In farm lease situations, the tenant is usually in control of the premises. If the tenant is keeping livestock and is responsible for maintaining the fences, he or she will be held liable if the fences fail and cause damage. However, in some cases landowners have been held liable if they agreed in the lease to keep the premises in good repair and the tenants or their guests suffered injury as a result of the landowners' failure to competently honor that commitment. But most often, owners have been held liable in a residential rather than a farm lease situation. Landowners have also been held responsible for "common areas" that are under their control and are used by all tenants. In the final analysis, both landowner and tenant need to exercise reasonable care.

Liability insurance is a business necessity. The farm lease should clearly specify the party responsible for obtaining and maintaining insurance, including premises liability, building and equipment casualty, and losses of both growing and stored crops, and at what level each should be insured. Often, the landowner requires evidence of the tenant's insurance coverage and that those policies "indemnify" the landowner for any losses he or she might suffer. By the terms of the lease, a failure to carry such coverage would most often be considered a default and grounds for termination. The lease may also require the landowner to use insurance proceeds to rebuild in the event that a structure essential to the farming operation is destroyed by fire or other casualty loss.

Recreational Uses and Liability

Vermont limits liability for landowners or tenants who make their land, streams and ponds available to the public for recreational uses. As long as the landowner doesn't charge for recreational uses, their duty to land users is no greater than that owed to a trespasser. In other words, the landowner owes no duty at all except to avoid willful or wanton misconduct. [29]

The liability shield, however, does not extend to equipment, machinery, or structures unless the recreational user does not have actual permission to use the equipment or structures.

Landowner Liability in Vermont

Business Invitees

A "business invitee" is a person invited or permitted to enter or remain on the land for a purpose directly or indirectly connected with business dealings.[25] Customers of a farm stand, farm suppliers, and members picking up their CSA shares are all "business invitees." Landowners have a duty to keep the premises free from unreasonable risks to business invitees. The premises must be kept in a safe and suitable condition so that a business invitee is not "unnecessarily or unreasonably exposed to danger."[26] This is the highest standard of care imposed under Vermont law.

A Social Invitee

A "social guest" is one who enters or remains on land with the consent of the landowner. A landowner will be liable to a social guest only when the guest suffers injury as a result of active or affirmative negligence.[27]

Trespasser

A "trespasser" is one who enters or remains on land without consent or other privilege. In Vermont, a landowner or lessee generally owes no duty of care to a trespasser, except to avoid willful or wanton misconduct.[28] Vermont has also not recognized the attractive nuisance doctrine, meaning that no special duties are owed to trespassing children.

Crop and Creditor's Liens

In the case of nonpayment of rent, many states have statues that provide the landowner an automatic lien on a tenant's crop. In Vermont, however, there is no statutory lien for landlords. A crop is the personal property of the tenant and the landlord has no interest or right to the crop for non-payment of rent. To obtain a lien, the lease must explicitly reserve one. A landlord without a consensual lien in the lease has no right to seize property of the tenant, to sell it, or to hold it as security for unpaid rent. In the absence of a lien, the remedy for unpaid rent is to go to court for an ejectment and a judgment for the amount of rent in arrears. Language in a lease that provides that a crop is not to be sold or removed until the rent is paid is inadequate to give a landlord title or a security interest. The language must specifically grant a lien, and the landlord would be wise to file a financing statement with the Vermont Secretary of State's Office putting others on notice of the lien.

Default Provisions in a Lease

A lease should spell out what constitutes default and the consequences of default on the part of either the tenant or the landowner. Default means that one of the parties to the lease has violated a term, either by failing to do something or by doing something not permitted by the lease.

Default provisions typically trigger a process that allows the landowner or the tenant an opportunity to "cure" the default within a particular time frame. For example, a tenant who misses a rental payment is given notice and a thirty-day period to make the payment.

Typical defaults under a lease involve failure to pay rent, failure to maintain liability or casualty insurance, or failure to comply with state and local regulations. Default may also involve failure to keep the property in good repair or engaging in a use prohibited by the lease.

A lease may provide several options for dealing with a default. It may allow the landowner to draw from a pre-paid deposit or to bill the tenant for hiring someone to do the work or repair the problem. The lease may also provide that if the problem persists, the landowner may give notice of intent not to renew the lease or terminate it.

A landowner may also default under a lease. For example, a landowner's failure to meet obligations under the lease with respect to repairs and maintenance is a default. In the case of landowner default, the lease may give the tenant the right to withhold rent or to pay the cost of providing the repair and deduct that cost from the rent. And again, if the problem persists, the lease may allow the tenant to give notice of intent to terminate.

A lease may also include a dispute resolution process to be followed in the event of a default. Mandated dispute resolution approaches may range from a shared commitment to negotiate differences at regular meetings between the parties to a more formal mediation or arbitration process. Because of the time and expense associated with contract disputes, most commercial leases now contain a clause to allow the parties to mediate the dispute prior to litigation.

Eviction and Ejectment

Landlords in Vermont may not enter and forcibly remove a tenant who has failed to pay rent or who has stayed beyond the lease term. A landlord who does so – it's called "entry or detainer with force" – may be held liable for restitution, court costs, fines, and treble, or triple, damages.[30] If the tenant fails to pay rent or refuses to peaceably leave the premises, the appropriate course for a landowner is to go to court to seek an ejectment. A court may issue a "writ of possession," an order to pay rent into the court. Landlords may also obtain a judgment for damages and costs including attorney's fees if the lease provides that attorney's fees are to be paid by the losing party.[31]

Recording of Leases

Vermont's real estate conveyance statutes require that leases be signed by the Lessor and by one or more witnesses and be "acknowledged" by the Lessor before a town clerk or a notary public.[32] An acknowledgement is a statement at the bottom of the document in which the person signing acknowledges before a notary public that signing the document is his or her "free act and deed." A copy of the lease, or if the lease is for a term of more than one year, a memorandum of the lease, must be filed in the land records of the town in which the property is situated.[33] The memorandum of lease must provide the names of the parties, the lease term, renewal rights, if any, and other summary information. The memorandum of lease puts third parties — potential purchasers, for example— on notice that others have rights in the property. The lease will have no effect against anyone but the Lessor unless it is properly acknowledged and recorded.[34] **See Appendix for Sample Lease Agreement (page 154) and Memorandum of Lease (page 160).**

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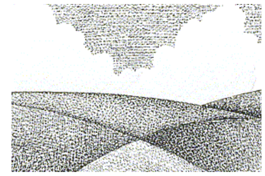

A Lease Agreements Guide for Landowners and Farmers

Do you have some land you want farmed? Or are you a farmer looking for some extra acreage? If so, you may be joining the ranks of the many landowners and farmers in Vermont who, by working together, help keep the state's "working landscape" open and productive.

If you are planning to work with a farmer or landowner, there are several issues to consider before you enter into an agreement to create a successful working relationship with your neighbor. The purpose of this fact sheet is to provide you with some of the basics involved with putting together an effective farmland lease agreement with which you and your neighbor are happy.

Step One

The first step in putting together an effective agreement is taking stock. Take a look at what you have to offer and your goals for the property.

For landowners, determining the amount and quality of land you have available is an obvious place to start. Keep in mind that not all land is created equal, particularly in New England. Land is quite variable and very few parcels of land are perfectly shaped in a square or rectangle. Land usually slopes in one or more directions. It can be rolling. In many cases, you cannot see the whole parcel from all points unless you are in an airplane. The point is knowing exactly how much land with which you're dealing.

Poor land, small parcels, or land with poor accessibility and/or obstructions may not even be worth considering, as these parcels may be too difficult to farm. However, if the land is fertile, accessible, and of a decent size, you may find farmers interested in using your land.

For farmers, take a look at what you have to offer, too. What type of farming do you do and what will you use the land for? Be prepared to answer basic farming questions. Landowners may be extremely inquisitive about your farming practices simply because they may not be familiar with agriculture. Remember, a little education will go a long way in creating a satisfying, long-term relationship with a supportive landowner.

By working together, farmers and cooperative neighbors help keep the state's "working landscape" open and productive.

What to Charge

In a lease agreement, determining a fair price is often the most important factor for both parties, yet it can be difficult to establish. Location, soil quality, the forces of supply and demand, your personal goals, and negotiations with your neighbor will all play roles in determining an appropriate price.

In some cases, you may not want to charge the farmer at all for farming your land. For example, if your goal is to keep the back pasture open, yet you don't want to pay someone to brushhog it, then inviting a farmer to take the hay off for free may make sense.

Most landowners would like to cover the property taxes on agricultural land with a rental fee, but this often does not make a realistic rental fee from the farmer's point-of-view. In fact, in some situations a landowner may need to pay some of the yearly maintenance costs, like liming and fertilizing, in order to attract a farmer to use his/her land, at least initially.

If you do plan to charge, most agreements are set up on per acre per year basis; that is, both parties agree up front on a price for the whole parcel based on a per acre charge for the year. In Vermont, land rents are extremely variable throughout the state. They can range from \$0-\$15/acre to \$50, even \$150/acre and higher for very good soils in certain locations for certain crops. Typically, land for vegetables is worth more than corn acreage, corn more than alfalfa, and alfalfa more than pasture and hayland. Sugarbushes are often rented by the tap at a range of 0-40 cents per tap and occasionally more.

Remember that farms are businesses and the land being used is an integral part of that business.

Bartering may be an option to consider. Barter agreements are very common in Vermont. "Payment" for using the land could be anything from plowing your driveway in the winter to getting some mulch hay for your garden or even cheese or vegetables produced by the farmer. It comes down to being creative and communicating your goals with each other to come up with a payment on which you both can agree.

Considerations for Landowners

Whether you have 100 acres of hayland or 10 acres of riverbottom soils, there are additional questions, besides rental income, to consider when leasing your property. Here are just a few.

- Who is the farmer? What is their history, experience, and reputation?
- What will they grow? What farming methods will they be using?
- What chemicals will they use? When and how will they be applied?
- How far is the land from the home farm and what are their normal hours of operation? Who do you contact when you need to discuss the parcel?
- Also, what kind of a landowner are you? Will you be interested in knowing each and every detail about the farming operation?
- Where do you prefer the farmer to access the parcel? Will there be any times of the season or year when it will not be appropriate for the farmer to access and use the land? (For example, you may prefer that the farmer not spread manure the weekend of your daughter's wedding--it's your job to let the farmer know this, in advance!)
- What types of regular maintenance do you prefer and who handles that? For example, will you maintain the hedgerows or will the farmer?
- What about erosion protection--does the farmer have a plan in place to address erosion control?
- If animals are boarded on the property, what happens if they escape? Who is responsible for their capture and return? Who do you contact and how?
- Are there buildings on the parcel to be used by the farmer, i.e. for storing feed and/or manure? Do fencing and water systems exist? Who pays for installation and/or maintenance?

Getting information about the farming activities and understanding your own preferences and restrictions for the land are valuable for both you and the farmer--before you enter into an agreement!

Remember that farms are businesses and the land being used by the farmer is an integral part of that business. A hayfield that looks beautiful to you is feed for the farmer's livestock. The spreading of manure may seem unpleasant, but to the farmer it represents a low cost way to significantly increase the fertility of the soil. Recognizing the different values (aesthetic versus financial, etc.) that the land and its uses provide you and your neighboring farmer are important in establishing a successful relationship.

Liability. As a landowner, you should consider liability exposure. Any liability risk to you would likely be protected by your homeowner's insurance policy, but a call to your insurance agent to be sure is prudent. Also, make sure that the farmers who use your land carry liability insurance and workers' compensation coverage to protect yourself from any liability caused by the normal operations of the farm.

To some extent, Vermont law protects both landowners and tenants from exposure to liability for property damage or personal injury when the public is allowed free access to the property for recreational purposes. Only willful or wanton misconduct on the part of a landlord or tenant that causes injury will lead to liability.

Current Use (Land Use Value Taxation). Vermont's Use Value Appraisal Program, also known as the "current use" program, enables farm and forest property to be taxed at its use value. The purpose of the program, which is administered through the Vermont Division of Property Valuation and Review, is to keep agricultural and forested lands in production and to slow the development of these lands. Enrolling your land in the current use program may be a primary incentive to work with a farmer over the long term.

To be eligible for the program, you must have 25 contiguous acres of farm land in active agricultural use or forestland under active management. Non-farming landowners are eligible if the land is used by a farmer as part of his/her farming operation under a written lease for at least three years. Forestland (which would include sugarbushes) must have a management plan approved by a county forester.

Because the program is meant to deter development, there are penalties imposed if you ever decide to subdivide or develop the land. The penalty, called a change in use tax, is equal to 10% of the full fair market value of the property as of the date the land becomes ineligible or is withdrawn from the program. The tax is assessed on any subsequent development and becomes a lien upon the land. So even though current use is a great way to reduce your property taxes and work with a farmer, there are long-term consequences--so consider this option carefully.

Considerations for Farmers

For farmers, the opportunity to lease or use someone's land can be extremely advantageous -- you can farm these often under-utilized parcels while avoiding the costs associated with land ownership.

When working with landowners, remember that for the most part, these folks may be well-meaning yet "farm-naïve"-- they may not realize that farming is a business <u>and</u> a way of life! Therefore, it is important for you to take the time to describe your farming operation and the work that will be performed on the land. Curiosity does not necessarily mean nosiness--it's your job to explain how the land will be used. The following are issues to include in discussions with your neighbor.

- Explain your farm enterprise. Tell the landowner how your use of the land is part of your farming business.
- What noises and smells do you anticipate, and at what times of year? Remember, even though you're used to the sounds of the tractor and the smells of manure, this may not be the case with your neighbor--it may be a good idea to remind them how these fit into the overall benefits of your business and their soils.
- When are the best times for the landowner to contact you and vice versa? What happens in case of emergencies, i.e. the cows get out?

- Where will you enter the parcel and how often will you need to access the land? It's a good idea to decide on one or two points to access the land and stick to them.
- Are there any potential hazards related to using the land? For example, will you be using electric fences and/or chemicals? Will there be animals on the land?

If you are planning to use someone else's property, you need to carry liability insurance and workers' compensation to protect yourself from any trespass, damage or injury that may occur on that acreage. There is some liability protection for tenants and landowners when the public is allowed access to the property for recreational purposes but insurance makes great sense. If you have livestock--whether they are leased or owned--on the property be aware that you are responsible if they get out and do damage to a neighbor's property.

Also, you must follow Vermont's Accepted Agricultural Practices (AAPs). AAPs are statewide restrictions aimed to reduce agricultural non-point source pollution (chemicals, manure, etc.) into groundwater. Examples include the ban of spreading manure between December 15th and April 1st and the use of vegetative buffer strips to reduce streambank erosion.

Being honest about the realities of farming may initially alarm some landowners, but it's better for them (and for you) to know the whole story up front, than to be surprised during the growing season. Also, remember that the hours you work are not typical for other occupations -- your work time may be your neighbor's leisure time. For example, if your plans include firing up the tractor at their parcel at 7:00 on a Saturday morning, it's a good idea to let the landowner know that, in advance! The point is the fewer surprises to the landowner the better, and on-going communication is key to a good working relationship.

Coming to Agreement

When both landowner and farmer are ready to make an agreement, you need to decide what type of lease you will use. In Vermont, three types of lease agreements are commonly used: the verbal agreement, a letter of agreement, and a written lease agreement.

At a minimum, all agreements should specify the name, address and contact information of each party; the date the lease was executed; the duration of the lease; a clear description of the property or facilities being leased and the purposes for which they may be used; the kind and amount of payment; time and place of payment; rights to extend or renew the lease; and how the lease may be terminated.

A Summary -- Types of Lease Agreements

Type of Agreement	Brief Description	Advantages	Disadvantages
Verbal Agreement	Also known as a handshake agreement, this is a verbal contract between two parties.	Easy to set up.	If either party backs out, agreement may be not enforceable
Letter of Agreement	Letter from farmer to landowner that describes the operation, plans for the land in question, and terms.	Written record, fairly quick and easy.	If signed by only one party, may not be enforceable against the other.
Lease Agreement	Formal description of the land, identity of parties & their signatures, terms and length of lease, any special provisions. Often witnessed, notarized and recorded.	Written record of exact terms and conditions agreed upon by both parties, effective against third parties, if recorded.	More costly for initial set up as attorneys should be involved.

Verbal Agreement. Many acres of Vermont farmland are leased with the use of a verbal, "handshake" or "gentleman's" agreement. They are very quick to put in place and in a majority of cases work extremely well for both parties. However, if you're considering a verbal agreement, it is important to remember the adage, "a verbal agreement is as good as the paper it's written on!" Obviously, no one plans for agreements to fail. However, many of the agreements that do indeed fail are caused by a lack of a clear and concise agreement. Because verbal agreements may not spell out the details (literally!) and often come down to "his word versus mine", they are much more at risk for failure than other types of agreements--especially over the long-run.

...remember the adage "a verbal agreement is as good as the paper it's written on!"

In fact, Vermont's statute of frauds will bar the enforcement of any lease agreement unless it is in writing and is "signed by the party to be charged." So if all you have is a handshake and the landowner decides not to rent to you after all, a court is unlikely to force him/her to honor your oral agreement. The statute of frauds also applies to oral amendments to a written agreement. So, if either party decides to change one of the important terms to your written lease, you need to get this in writing, too.

"Signed by the party to be charged" means that it must be signed by the person you want to hold to the agreement. If you send a letter to the landowner thanking him/her for agreeing to rent to you in the upcoming season, include all the important terms, and sign it, the landowner will be able to enforce your agreement in court. You will have no recourse against the landowner, however, unless he signs a copy of your letter and returns it to you. In rare instances, the courts have enforced an oral agreement involving transfers of real estate where equity has demanded it - but don't count on it.

The other hazard of an oral agreement is that at some point in the relationship, a dispute will arise and there will be nothing in writing to help you resolve it. And if you can't work it out, a court could step in and resolve it for you. In Vermont, by statute, an oral lease conveys no more than a "tenancy at will" which means that it can be terminated at will by either party with minimal notice. The courts, however, have sometimes found that these tenancies can, over time, become tenancies from month to month, or from year to year, and will otherwise determine the rights and responsibilities of the parties. Operating under an oral agreement can leave you open to swift termination without recourse or to a court's interpretation of your rights and responsibilities.

If you do choose to use a verbal agreement, be sure to communicate as clearly as possible the terms of the agreement.

Letter of Agreement. A letter of agreement is simply that--a letter from one of the parties, usually the farmer, which specifies the agreement. The letter is often acknowledged by the other party by their signature. The letter is typically written at the beginning of each growing season or year and explains the uses of the land for that season. Letters of agreement can be a relatively quick way to enter into an agreement and are generally a good way to keep in touch with your neighbor.

The risk involved with a letter of agreement is that it may be signed by only one party. If it is not signed by the party you want to hold to the agreement you will not be able to enforce it in court. The other risk is that it may not contain enough of the essential elements of your agreement. Your letter should be dated, contain the name, address and contact information of each party; the duration of the lease; a clear description of the property or facilities being leased and the purposes for which they may be used; the kind and amount of payment and time and place of payment; rights to extend or renew the lease; and how the lease may be terminated.

Lease Agreement. Should there even be a written agreement? For agreements longer than a year, definitely! Why? A signed, written lease agreement prevents misunderstanding among both parties. A good way to think of a lease is like the minutes of a meeting. It tells when you met, who was there, and what was decided. A lease leaves much less chance for misunderstanding and disagreements, and protects both parties should either die. If the income from this rental property is an important part of your farm cash flow, it is important enough to put it in writing. Many lenders, in fact, will require a written agreement.

Lease agreements are formal written documents, often drafted or reviewed by attorneys, witnessed and notarized. Leases for longer than one year should be recorded in the clerks office of the town where the farm lies, much like deeds. If not recorded and properly acknowledged, they bind only the tenant and the landowner and are of no effect against others who may have a subsequent claim to the land.

A good way to think of a lease is like the minutes of a meeting. It tells when you met, who was there, and what was decided.

Leases have certain legal implications. When a landowner leases farmland, s/he, in essence, is giving up possession of the property for the lease term, but retains all the rights that are included in the lease agreement. For example, the lease may allow the landowner to access the property to inspect the land, make repairs, or collect rent but unless the agreement allows it the landowner cannot use the property for his/her own purposes without the permission from the tenant, even for hunting.

Leases can run for a single year or multiple years. Longer-term leases encourage stability and ongoing operation--the longer the lease term, the more likely the farmer will treat the land as his/her own and the better stewardship of the land. Vermont does not limit the term or length of agricultural leases. However, a transfer tax is imposed upon leases of 50 years or more, much like the transfer of title to real estate.

Elements of An Agreement

Whether you have a verbal agreement, a letter of agreement, or a formal lease, the following elements should be considered for an effective agreement.

Clear and Concise Language. It is important to be as clear and concise about the terms of the agreement as possible--that way there should be no disputes about what the agreement does and doesn't include. Begin by including the start date of the agreement, and the names of the landowner (aka "landlord" or "lessor") and the farmer (aka "tenant" or "lessee") with addresses and phone numbers for both.

Description of Property. Include the specific location of the parcel including the names of the road, town, county, and state. You can use the legal description on the deed to the property or a more informal description. Errors are more likely when the parcel to be rented is part of a farm or part of a field so be particularly careful in those cases. A stranger should be able to read the description and know exactly what parcel you are referring to. Also include the total number of acres in the agreement--your local USDA office can offer aerial photos and/or size of parcels.

Terms. When does the agreement start and end, and what are the options for renewal? The term of the lease should be stated with written permission to review the lease and/or change the lease by either party. Spell out what should happen if the landowner sells the property while leasing it to the farmer--usually they need to give advance written notice to farmer to vacate the property.

Payment Schedule. What is the amount and type of payment? How often do payment transactions occur? The lease should specify a rent per acre or a total rent per year and can include a penalty if payment is late. The lease can also provide for goods or services provided by the tenant in lieu of rent – plowing the driveway, tilling the garden or a part of the tenant's crop.

Rights and Obligations of Both Parties. This would include the right of entry by the landowner. The lease should specify purposes for which the landowner can enter the property and provide a minimum prior notice to the tenant. Some lease agreements contain "no right to sublease" and "lease is binding to heirs" clauses.

Land Use. How is the land to be used? Many leases specifically restrict the tenant to an agricultural use. You can also dictate a particular crop rotation or a detailed land use plan. Prohibited uses can also be listed, i.e., cutting timber or plowing pasture.

Expectations for Operation and Maintenance of the Land. Who takes care of maintenance, repairs and improvements on the land? For example, who pays for the fencing to be used by the farmer but stays with the property? Are any alterations allowed? In addition, any considerations of land fertility should be included here.

Termination Conditions. When does the lease expire and how must the tenant leave the property? How much notice will be required in order to terminate the lease and must it be in writing? Are any improvements necessary and who will pay for them?

Landlord Liens. Some leases include a lien on the tenant's crop to secure the payment of rent. Neither Vermont statutes nor common law provide for an automatic landlord lien on the tenant's crop in the event rent goes unpaid. Without a lien, the tenant's crop is his/her personal property and the landowner has no right to seize the crop or other property of the tenant to sell or hold as security for unpaid rent. In the absence of a lien, the remedy for unpaid rent under Vermont law is to go to court for an "ejectment" and a judgment for the amount of rent in arrears.

Stewardship. You may want to include a provision requiring the tenant to farm in a "good and husbandlike manner" and/or require specific farm practices to protect the long-term productivity of the farm. Such provisions might include compliance with a government conservation plan, limits on the number of cuttings of alfalfa, and/or soil testing to inform the application of nitrogen or lime.

What If Things Aren't Working Out

What happens if one or both parties are not happy with the agreement? This will depend upon the type of agreement you choose, and how willing you are to work it out.

All agreements should include a discussion about arbitrating differences--how are you going to handle potential disagreements. You may choose to discuss differences among yourselves or have a third party mediate. If the landowner or farmer is not doing what they agreed to, you will need to first discuss the situation and work out a solution. If you can't seem to come to agreement, it may be wise to consult a mediator or an attorney.

Again, a thoughtful, thorough discussion before you enter an agreement may be the best way to avoid unpleasant disagreements.

For Continued Success

Once the agreement is put into place, don't go away and forget about it. And don't let the written lease expire. If the relationship continues beyond the term of the written lease, you're operating under an oral agreement. Keep the lines of communication open. If you've forgotten some important details, like the location of your septic tank or leach field, communicate that with the farmer.

As a farmer, you may feel too busy to bother with the landowner once an agreement is set up. But try to keep in touch with your neighbor with a phone call, letter or personal visit. Show problems and successes. An end of the season letter that reports how the season went for you might be a nice way to keep in touch. All will help keep the landowner interested in your farm business and help build a long-term relationship.

And, remember, **you** are the key to keeping Vermont's farmland open and productive. Your creativity and on-going communication with your neighbor will help you both work and enjoy the land together.

Resources

For information on linking with farmers and/or landowners in Windham County, please contact:
Windham County Natural Resources Conservation District
28 Vernon Street, #2, Brattleboro, VT 05302-8605
(802) 254-9766

For information on linking with farmers and/or landowners in other Vermont locations, please contact:
Land Link Vermont
University of Vermont Center for Sustainable Agriculture
590 Main Street, Burlington, VT 05405
(802) 656-0233
http://www.uvm.edu/landlinkvt

Additional Resources:
UVM Extension & Windham County Forester
157 Old Guilford Road, Brattleboro, VT 05301-3669
(802) 257-7967
http://ctr.uvm.edu/ext/

Vermont Farm Bureau
2083 East Main Street, Richmond, VT 05477
(802) 434-5646
http://www.vtfb.org

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This publication was developed in collaboration by Land Link Vermont, the Vermont Farm Bureau -- Windham County, and the Windham County Natural Resources Conservation District. Land Link Vermont is a program of the University of Vermont Center for Sustainable Agriculture and connects farm seekers and farmland owners and provides them with information about farm transfer in Vermont. The Vermont Farm Bureau is the state's largest non-profit trade association of farmers and foresters with a mission to increase the profitability of our members and preserve Vermont's rural quality of life. The Windham County NRCD is a non-profit, non-partisan organization composed of local community members who are dedicated to the conservation and development of natural resources which improve the local economy and enhance the well-being of all Windham County citizens.

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Extension FactSheet

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THE OHIO STATE UNIVERSITY EXTENSION

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Managing Landlord-Tenant Relationships: A Strategic Perspective

LeeAnn E. Moss, Assistant Professor
Bernie Erven, Professor

Many farmers depend on leased farmland to have a business of adequate size and income. This makes long-term, positive relationships with landlords one of the keys to their success. Good production management and marketing do not overcome insensitivity to their landlords' values, objectives, and frustrations. On the other hand, many landlords depend on their lease income for financial security. They also seek stable and hassle free relations with their tenants. Landlords often have emotional ties to the land they are leasing. They likely assume that others, especially tenants, will be sensitive to the history, the sense of accomplishment, the sacrifice, and the pride embodied in the land. Just as certain principles and practices guide borrower-lender, employer-employee, husband-wife, and parent-offspring relations, some important principles can guide landlord-tenant relations.

The Landlord-Tenant Relationship

While the percentage of leased farmland has remained relatively constant in the U.S. over the past century, the characteristics of lessees, lessors, and the nature of the contractual arrangements between them have changed. About 65 percent of landlords are more than 60 years of age. Most are not actively engaged in farming. Over half live within 25 miles of the rented acreage. Women are a significant factor; while 31 percent of landlords are men, 40 percent are women, and another 29 percent are joint male and female (Rogers). Moreover, the significance of female landlords is expected to increase as the overall farm population ages.

The proportion of rented land is generally higher in states, Ohio for example, where land is more highly valued. In fact, in 1997 approximately 47 percent of land in farms in Ohio was leased (1997 Census). Though share leasing has historically dominated in the Midwest, results from the most recent Ohio Farmland Lease and Precision Agriculture Survey indicate that over 75 percent of leased land is now cash leased, and that crop-share terms vary significantly. Additionally, a 1998 survey of professional farm managers in Illinois reported that 93.2 percent had experienced a modest to significant increase in the level of cash leasing in their market area (Barry, Sotomayor, and Moss).

A recent study indicated that lease preferences are influenced less by risk aversion than by the characteristics of the leasing relationship — namely the threat of opportunism from the landlord and the potential returns to the producer's management ability (Moss). Moreover, Bierlen and Parsch found that social capital is important in determining the terms of trade between lessee and lessor. For example, a tenant is less likely to pay higher cash rents when the landlord is a relative. In other words, the nature and extent of the relationship between landlord and tenant can have a significant influence on lease type and terms, which in turn can impact the profitability and competitiveness of Ohio farmers.

Guidelines for Tenants

Following some straightforward guidelines can help tenants ensure that their farm businesses remain profitable. The guidelines can also reduce the costs of day-to-day relationship problems. Dunaway and Dunteman remind us that the old adage of "keeping the landlord happy" is no different from an effective public-relations strategy in any business. For example, they reduce a strategy for farmers, with the end goal of retaining control over rented land or other real estate, to six key points: (i) communicating with landlords, (ii) educating lessors about agriculture, (iii) explaining farm costs and their changes over time, (iv) providing regular crop reports during the growing season, (v) maintaining the appearance of the property, and (vi) treating landlords like family.

A successful strategy for managing relationships with your landlord should include the following:

- **Have a written lease:** Lease agreements for farmland or other real property assets should be in writing. Many landlord-tenant relationships in Ohio have traditionally been governed by oral leases. However, keep in mind that oral, informal, and incomplete arrangements can foster misunderstanding and provide little guidance or protection to parties when disagreements occur. (Please refer to the *Legal and Management Aspects of Ohio Farmland Leases* fact sheet in this series.)

- **Provide a résumé:** Provide landlords with a detailed "résumé" of your farming operation. Include specifics regarding business objectives and philosophies, history of your business, education, tillage practices, equipment, land tenure, financial strength, and family.
- **Provide information about objectives:** Inform your landlords of the objectives for your farming operation. Remain responsive to changing landlord needs and communicate this responsiveness. Particularly when goals change, dialogue among the parties may foster a continued relationship, though the lease type or terms may evolve. Anecdotal evidence suggests that poor communication in this regard is a common reason for tenant termination. For example, a crop-share landlord may no longer wish to share in production and price risk. If she and her tenant have not communicated over time, assumptions may be made that result in the lease being awarded to another farmer.
- **Agree on a cropping plan:** Agree upon a cropping plan early in each crop year. Include specifics regarding input use and field operations.
- **Provide regular updates:** Regularly update landlords regarding crop conditions and commodity markets during the growing season. Include photographs where possible. Anticipate the landlord's interest in how the weather is influencing crops, when planting or harvesting will begin, and reasons for any delays in planting or harvesting.
- **Inform and educate:** Particularly for absentee or non-farm landlords, you should provide information regarding agriculture and farming. Regular mailings of print media articles, newsletters, etc. both serve to educate landlords and demonstrate attentiveness. Consider developing a web site for informing not only absentee landlords, but their heirs who may inherit the property. Over informing may be the best strategy, particulary early in a new landlord-tenant relationship.
- **Provide cost information:** Landlords should be regularly updated regarding the costs of farming. Alerting the landlord to anticipated changes in costs can prevent irritation when the bill arrives.
- **Alert the lessor to problems:** Immediately alert your lessor when on-farm problems occur. If urgent, a phone call may be the most appropriate channel of communication.
- **Document in writing:** If decisions are made regarding items outside the scope of those provided for in your lease, be sure to document them in writing, e.g., a letter summarizing the agreed-upon action.
- **Improve appearance:** Producers should strive to improve the appearance of fields, driveways, roadways, and accompanying buildings. Landlords and neighbors who are potential landlords often correlate the appearance of the farm with farmers' abilities as tenants.
- **Acknowledge life events:** Acknowledging major events in the lives of your landlords can be effective. Holiday, birthday, and sympathy cards, for example, can assist in building relationships. Lease terms are influenced by kinship, or by relationships that approach kinship.
- **Encourage "face" time:** Encourage landlords to visit their farms at least once during each growing season.
- **Pay explicit attention to the next generation of owners:** Attentiveness to your current landlords is critical, but may not ensure your continued tenure when their heirs inherit the farm. Where possible, strive to inform, educate, and visit with the next generation as well.

Guidelines for Landlords

Landlords can help accomplish the objectives for the farm and build positive relationships with their tenants. A successful strategy should include the following:

- **Have a written lease:** This is even more important for the landlord than for the tenants. The nature and terms of your tenant's leasehold interest can influence the value of your property. As such, it is important that these terms be specified precisely in writing, and it is in your best interest to have legal counsel involved.
- **Ask questions:** Strive to fully understand your tenant's activities, production practices, and decisions relating to your farm.
- **Provide information about objectives:** Landlords should keep tenants informed regarding their investment (or other) goals for the farm.
- **Stay informed:** Staying informed about the economics of farming, land values, and rental markets is important. In particular, this will prepare you to respond to situations when your tenant may seek lower rents. Network with other landlords in your state or region. Finally, spend time studying each report prepared by your tenant during the growing season.
- **Schedule yearly meetings:** Schedule annual sit-down meetings with each of your farm tenants to discuss the property and leasing relationship, and provide each tenant with a written summary of any important points of discussion.
- **Be rational:** Be wary of farmers who promise what seem to be unbelievable, too good to be true improvements over your current tenant. Moreover, avoid reaching critical judgements about your current tenant until you have collected the facts and provided him an opportunity to present his side.

A Landlord-Tenant Relationship Checklist

The type of information communicated between landlord and tenant can be as important as the amount of communication. Existing relationships may be strengthened, or new ones solidified, if the leasing parties ask appropriate questions. The following checklist of questions can guide communication. Landlords and tenants can use the same checklist.

- **Goals:** What are your investment (for landlords) or business (for farmers) objectives?
- **Risk:** How would you describe your level of risk aversion? What is your perspective on sharing risk? How much production and price risk do you wish to incur?

- **Lease preferences:** Do you have any pre-existing preferences for or objections toward certain lease types? Determine the foundation of any objections or biases. Biases can either be overcome or will dictate the lease type through which the relationship is governed.
- **Communication preferences:** Ask the other party about their expectations regarding the type and extent of communication that they desire over time, and be prepared to adapt accordingly.
- **Attitude toward change:** Are the parties to the lease willing to consider new options as opportunities or challenges present themselves?
- **Constraints:** Does either party have any taxation, business, financial, or other constraints that may influence the nature of the lease or the relationship?
- **Win/win:** Are both the landlord and tenant willing to seek win/win solutions to problems?

These guidelines may have three potential applications. They can be used to guide communication during: (i) the first in-depth landlord-tenant discussion prior to leasing the acreage, (ii) annual meetings between the parties to the lease, and (iii) the first in-depth discussion following a life-changing event (e.g., death of the landlord's spouse, death of a landlord followed by assumption of lessor responsibilities by an heir).

Communication—A Critical Skill

A successful relationship strategy depends on effective communication. Removing barriers is an effective way of improving communication, and requires an understanding of the communication model. The model consists of sender, message, receiver, channels, feedback, and effect. The sender sends a message through appropriate channels, either verbal or nonverbal, to a receiver. A response is provided to the sender of the message via feedback from the receiver. Feedback need not be sent through the same channel as the message (e.g., it may be a nonverbal cue such as body language). Through interpretation of this feedback, the sender can determine if the original message was received in its intended form. Effect on the receiver completes the communication process.

Problems in any one of the components of the communication model can result in barriers to communication, such as:

- **Unclear messages:** The receiver remains unclear about the intent of the sender. The sender can interpret feedback to determine if the message is clear or unclear.
- **Stereotyping:** Stereotyping involves either the sender or receiver developing a subjective impression that the other conforms to a certain mental model. This can be a barrier to communication when it substitutes for analysis of and responsiveness.
- **Incorrect channels:** Use of the correct channel assists the receiver to understand the nature and importance of the message. Choice of channel is dictated by the urgency, complexity, and formality of the message, as well as the knowledge, skills, and abilities of the receiver. Tenants should keep in mind that landlords sometimes want more than a written report.
- **Language:** The sender's words combine with the receiver's perceptions of them. The relationship between perception and reality can be determined through interpreting feedback. Progressive, younger tenants should be cognizant of using appropriate language. Technical or complex terminology may leave certain landlords confused and suspicious.
- **Lack of feedback:** Feedback mirrors the sender's original message, and may indicate a perception problem. It may occur in the form of questions, or nonverbal cues such as a frown or puzzled appearance. Prompt feedback, in which both parties play active roles, should be encouraged. Asking the receiver to repeat the message in his own words is often effective.
- **Poor listening skills:** Poor listening skills are pervasive. Good listening skills are fostered by: (i) being prepared to listen, (ii) avoiding interrupting the speaker, and (iii) being an active listener, which includes providing feedback. Listening is a particular challenge for tenants, who may have less time for "friendly chatter" than landlords. However, this type of interaction may provide important hints of landlord concerns that don't emerge in more formal discussions. Busy farmers should remember that lonely landlords will appreciate both time and lease payments from their tenants.
- **Interruptions and physical distractions:** Communicate in an atmosphere that is comfortable, private, and nondistracting for both parties. Find the right time to meet with landlords.

Relationships between tenants and landlords can be enhanced if the parties improve their communication skills, make communication goal oriented, approach communication with a positive and creative attitude, and work to reduce barriers.

Summary

Relationships are an important and often under appreciated source of risk for Ohio farmers and their landlords. For the landowner, an effective relationship management strategy helps ensure that her investment (or other) goals for the farmland are reached. For the producer, it is fundamentally important to his security of tenure. For both parties, it prevents or mitigates the "costs" of conflict and disagreement. Finally, in an environment characterized by strong competition for leased acreage, superior relationships provide farmers with a potential source of sustainable competitive advantage.

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Doing Your Homework Before You Meet Each Other: Who are these People that want to lease my Land?

Presented by Dave Llewellyn, Head Gardener, Glynwood Farm at

Landings: A Workshop to Encourage Collaboration Between Non-Farming Landowners & Farmers in Search of Land February 21, 2009

I grew up in North Jersey, far from any farms. I have a liberal arts degree, used to work in the Met Life building. These things make me pretty typical of a farmer with ten years experience. Somehow, we new farmers are arriving at our chosen profession. We are motivated, optimistic, and we engage people in the important work that we are doing.

By and large, the farmers looking for opportunity here in the Northeast are new farmers, by definition those with fewer than 10 years experience.

As reassuring as it would be for a landowner to find a farmer with 30 years experience to lease your land, it is just not as likely. Farmers with that kind of experience have established operations and markets. Unless they are looking to expand operations, these are not the folks that will be knocking on your door.

You will hear from some of those farmers later in the program. My intention is to talk to you about these new farmers.

Don't be scared! I am not trying to sound a discouraging note. Today's new farmers have worked hard on farms and learned a variety of skills from experienced farm managers. The new farmer you want to establish a relationship with is one who has some solid experience on a successful farm and who demonstrates that they can and will consult with their mentors when the need arises. Our best farmers are the ones who realize that they are never done learning, after all.

A landowner is rightfully concerned when they meet a farmer who has just a few seasons under the belt or no formal agricultural training, certificate or degree. Ask the farmer why they feel confidant. You are likely to hear about the sound operation they interned for. They may taut the Collaborative Regional Alliance for Farmer Training – a network of farms that enhance internship training through operational tours and discussion on farm management practices. They may gush about all they have learned as a participant at conferences put on by the Northeast Organic Farming Association. They have learned sound, sustainable practices and that these skills, coupled with direct marketing, are the foundation on which a new agricultural venture is built.

I recommend that a landowner make a list of questions for prospective tenants that will help determine if this person is committed, knowledgeable and connected to the larger agricultural community, or if they should perhaps just *be* committed. So ask them about their mentors, ask if they are affiliated with any agricultural groups and ask what motivates them. In addition to leasing your land, you may feel moved to assist the farmer by helping them to navigate their new community and make good connections.

There really is a strong network of support for new farmers in the agricultural community. I believe most of us farmers see each other as collaborators rather than competitors. We want to strengthen our local food system. We want to see each other succeed. We need more farmers.

There are a few things that may concern you about your potential tenant. It may seem odd to you that a bright young person would want to get into a career that promises little financial return for all of their hard work. They have no visible means to pay for their own health insurance. Where will they live on such meager earnings? These are all legitimate issues, but ones best left to your tenants' concern. Your business with them is in the lease. As long as landlord and tenant are meeting the terms of the lease, you have done all that was asked of each other.

Many of us involved in the sustainable agriculture movement adhere to the concept of voluntary simplicity. Voluntary simplicity is a lifestyle choice to minimize consumption and the pursuit of wealth. I am not talking about choosing poverty. We examine what we need, figure out what is enough and don't worry about the rest. Maybe we feel we don't need cable tv or a second car. Some of us forego health insurance for obvious financial reasons, but also because we eat healthfully, get plenty of exercise and are generally indestructible.

You don't have to agree with all of this! I don't! Health insurance is important to my family. What I am trying to stress is that we can respect of differences on these concerns.

Still, many of us living simply are okay with a low income because we feel good about all the intangible benefits of our work. We get to bring people together in many positive ways. Some of us farmers put on community events or donate to local food banks. We contribute to a healthier environment and healthier eating. We are strengthening our regional food economy at a time when it is abundantly clear that we should not be trucking in our produce from California. I see new farms going into production in our communities as our Victory Gardens.

A landowner has a wonderful opportunity to be a big part in revitalizing our regional food economy. It is exciting and refreshing to see beautiful land in production and to see the products that land yields shared with the local community. People will thank you for sharing. I think you will thank yourself too.

Elements of a Good Lease

The following is a partial list of important conditions to cover in a written agricultural lease. It is meant to guide the lease negotiation process, but it is not exhaustive and should not be used as a template for an actual lease.

1. **Preamble.** Describes lessor and lessee. May also describe lease intent.
2. **Description of leased property.** Attach map if possible. If longer-term lease, use legal description from Preliminary Title Report.
3. **Term.** How long does lease last? Initial length, terms of renewal.
4. **Rent.** Lease payment amount, how and when paid, installments, deposits.
5. **Use.** Allowable uses, restrictions or requirements regarding production and other activities, methods, etc.
6. **Operating costs.** Water district fees, electrical use, etc. How assessed, who pays, how billed. Usually tenant must pay all business-related costs.
7. **Maintenance, repairs, alterations.** Who is responsible for maintenance of land/infrastructure. Allowable alterations, whether permission required.
8. **Indemnification and liability insurance.** Holds owner harmless. Must tenant hold general liability policy? If so, specifies amount of coverage.
9. **Taxes and assessments.** Clarifies that owner responsible for property taxes, tenant for all personal/business-related taxes.
10. **Initial condition of premises.** Okay as-is? Improvements or upgrades required before start of lease?
11. **Assignment or subletting.** Allowable or not? If so, conditions.
12. **Compliance with Law.** Reiterates that tenant responsible for all applicable laws re: hazardous materials, labor, environmental regs, etc.
13. **Default by tenant.** What constitutes breach of lease, how remedied or terminated.
14. **Dispute resolution .** To avoid potentially costly attorneys'/court fees, specify mediation, then binding arbitration.

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THE OHIO STATE UNIVERSITY EXTENSION

Extension FactSheet

Agr., Env., & Devel. Economics , 2120 Fyffe Road, Columbus, OH 43210-1061

Farm Rental Agreement Checklist

Donald J. Breece, District Specialist, Farm Management, Southwest District

It has been said that a "contract is no better than the word of those who sign it." On the other hand, a written contract is still an essential business practice when leasing farm property. It forces detailed consideration, communication, and understanding by both parties. It serves as a handy reference in case details are forgotten or there is a death of the tenant or landlord.

The contract should encourage the most profitable, long-term operation of the farm and be beneficial for both parties. Are the returns proportional to the contributions both tenant and landlord make to the business? Will the lease prevent or discourage a tenant from operating the farm in the same way a well-financed owner-operator would run it? Are the best farming methods, conservation practices, and/or environmental practices utilized? What is the plan for needed improvements? Every contract or lease agreement will one day terminate; how is termination to be handled? What method(s) will be used to settle accounts?

The following checklist will assist tenants and landlords to consider components of a well designed lease agreement. It is advisable to have an attorney for one party prepare the lease, with a review by the attorney for the other party.

Parties to Lease and Description

_____ Date the lease is entered into.
_____ Names and addresses of the landlord and tenant.
_____ Legal description of the leased property.
_____ Signatures of the landlord and tenant.

General Terms

_____Time period of the lease, including beginning and ending dates.
_____Rental amount for cash lease; respective shares and contributions if a crop-share lease.
_____When and how rent will be paid and penalties for late payments.
_____Who will carry insurance on the property and the crop.
_____Statement that the landlord and tenant do not intend to create a partnership by entering into the agreement. Neither party will obligate the other for debts/liabilities or damages.
_____Conditions under which the tenant may or may not sublease the property.
_____If the land is enrolled in an agricultural district, providing protection against nuisance suits over farm operations and additional review if land is taken by eminent domain.

Termination

_____When and how the lease may be terminated and requirements for notice of termination.
_____Reimbursement provisions for crop nutrients, lime and/or completed fieldwork upon termination of the lease.
_____Acts of the tenant that would constitute default of the lease.
_____Tenant's rights if the property is transferred or condemned during the lease period.
_____Reimbursement provisions for a crop still in the ground when the lease is terminated.

Operation and Maintenance

_____Desired or prohibited farming practices, including types of chemicals that may not be used on the property.
_____Process of measuring and maintaining soil fertility and pH levels.
_____Which party is responsible for controlling noxious weeds.
_____Which party is responsible for maintaining fences.
_____Whether the tenant has the right to make improvements and be compensated for improvements.
_____Whether the tenant has the right to utilize improvements made by the landlord.
_____Provisions for soil-conservation practices.
_____Statement regarding the existing environmental status of the property and responsibility to minimize activities that may cause contamination.
_____Use of non-cropland, garden plots, trees, buildings, grain bins, pasture or other areas not rented for cropland.

Landlord Rights and Government Payment

_____Landlord's right to enter the property for specific purposes.
_____Landlord's right to a security interest in the crops or other provisions for ensuring payment.
_____Statement of which party will participate in federal farm programs, including responsibility for eligibility and receipt of payments.

_____Nature of landlord participation in management. This may relate to issues regarding income and self-employment, taxes, social security payments, and estate planning.

Arbitration of Differences

_____Provision that any amendments must be in writing and signed by both parties.

_____Procedure for resolving disputes, including the applicable state statutes.

Crop-Share Provisions

_____General agreement, sharing of crops and tenant's contribution of machinery and labor. Each party should share returns in the same proportion as resources are contributed.

_____Sharing of operating expenses, generally variable expenses are shared in the same percentage as the crop share; if there are adjustments for no-till, custom application, liming or any new technologies adopted.

_____Storage and/or delivery of landlords share of crops.

_____Compensation upon termination of the lease.

_____What records are to be kept by whom and how will this information be shared.

Summary

If the term of the lease is for more than one year, it must be written to be legally enforceable. It also should be reviewed each year to ensure the terms are still desirable. Multiple year agreements require the following:

Term	*Legal Requirements*
Up to 1 year	Verbal can be enforceable
1 to 2 years	Must be in writing and signed by the parties.
2 to 3 years	Must be in writing, signed by the parties, notarized, and recorded in the county where the land is located.
3 years or more	Must be in writing, signed by the parties before two witnesses, notarized, and recorded in the county where the land is located.

This checklist does not include all possible considerations for flexible-cash rent provisions or a number of other items that tenants or landlords may want to include in the written agreement. Furthermore, each state has different statutes and local communities have unique customs. This fact sheet is not intended to take the place of sound legal advice required by any party entering into a contractual relationship.

Use the checklist as a guide to judge an agreement as to the components normally required or advisable to be included within a leasing contract.

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Sample Short-term Lease Agreement

This agreement is between _________________ (landowner) and _______________, (tenant), for the lease of certain parcels of land for the purpose of __________________ ___________________________ [describe agricultural purpose(s) and operation].

1.The parcel(s) contained in this agreement are is/described as follows: [parcel location, acreage, bounds, features, condition, etc.]

2. The term of this lease shall be from _______________ to _____________________ except as terminated earlier according to the provisions below.

3. The tenant agrees to pay a lease fee to the landowner of $_______ per acre or $_______ total, per year. The tenant agrees to pay such sum at the beginning of the lease term and on the anniversary thereof unless otherwise mutually agreed. A late penalty of up to [ ]%/month may be assessed on all late payments. This lease fee may be renegotiated annually.

4. Permitted Uses: The tenant is permitted all normal activities associated with the above purposes, including but not limited to:

The tenant agrees to employ standard best management practices. It shall not be considered a default of this Lease if weather or other circumstance prevents timely practices or harvesting.

5. Prohibited Uses: The tenant shall not, unless by mutual agreement to the contrary, engage in any of the following activities on said parcel(s):

6. The tenant agrees to prepare an annual management plan for review by the landlord, complete annual soil testing, and apply amendments as indicated at his/her own expense. The tenant agrees to proper disposal of trash and waste. The tenant further agrees:

7. The [landowner/tenant] agrees to pay all taxes and assessments associated with this parcel.

8. The farmer agrees to provide the landowner with evidence of liability insurance coverage.

9. Either party may terminate this lease at any time with _____ month notice to the other party. The tenant agrees not to assign or sublease his/her interest.

10. The terms of this lease may be amended by mutual consent.

11. A default in any of these provisions by either party may be cured upon written notice by the other party within ____ days of receipt of such notice. Any disputes occurring from this lease may be resolved by standard mediation practices, if necessary.

12. Landowner retains his/her right to access the parcel(s) for the purposes of inspection with prior notification to the tenant.

13. Other special terms and conditions in this lease:

signed:

____date______________________

_______________________________________ date______________________

Attachments may include:

• Plan of land
• NRCS or other Farm Conservation Plan
• Proof of insurance
• Other documents as mutually agreed

PREEMPTIVE PURCHASE RIGHT
{subject to final review by ASA's attorney}

____________ FARM, _____________, New York

THIS PREEMPTIVE RIGHT TO PURCHASE, granted this _____ day of ______ ______, 2008 by ___________________________________, [a[n] ___________________], having an address at ____________________________ (hereinafter referred to as "Grantor"), in favor of **Agricultural Stewardship Association, Inc.**, a not-for-profit corporation organized under the laws of the State of New York, having an address at 14 Main Street, Suite 100, Greenwich, New York 12834 (hereinafter referred to as "Grantee").

W I T N E S S E T H:

WHEREAS, Grantee is a tax-exempt not-for-profit conservation organization, qualified under Sections 501(c)(3) and 170(h) of the Internal Revenue Code of 1986, as amended, and, as that term is defined in Article 49, Title 3 of the New York Environmental Conservation Law to accept and hold conservation easements, whose primary purpose is to promote, foster and encourage the maintenance and redevelopment of agriculture as a natural resource industry and to protect the land resource base;

WHEREAS, Grantor is the owner of that certain real property consisting of approximately ____-acres in the Town of _____________, ____________ County, New York more particularly described in Exhibit A (the "Property") attached hereto;

WHEREAS, the Property consists primarily of productive agricultural and forest lands;

WHEREAS, Grantor has on this date granted to Grantee a perpetual agricultural conservation easement (the "Conservation Easement"), to be simultaneously recorded with this preemptive purchase right, encumbering the Property for the public benefit for the purpose of ensuring that the Property will remain open and available for agricultural and forestry use in perpetuity and providing other public benefits, as described in the Conservation Easement;

WHEREAS, Grantor wishes to further encumber the Property for the public benefit by granting Grantee the preemptive right to purchase the Property for the purpose of ensuring that the Property will remain affordable to farmers and will continue to be used for agriculture and forestry for the benefit of the general public; and

WHEREAS, the Conservation Easement and this preemptive right to purchase further the public interest expressed in Section 301 of Article 49, Title 3 of the New York Environmental Conservation Law, which declares that "in order to implement the state policy of conserving, preserving and protecting its environmental assets and natural and man-made resources, ...the preservation, development and improvement of agricultural and forest lands…, is fundamental to the maintenance, enhancement and improvement of…balanced economic growth and the quality of life in all areas of the state".

NOW THEREFORE, in consideration of ten dollars ($10.00) and other good and valuable consideration, the sufficiency of which is hereby acknowledged, Grantor on behalf of Grantor and Grantor's heirs, executors, administrators, legal representatives, successors, and assigns hereby grants to Grantee a perpetual preemptive right to purchase the Property (hereinafter "Preemptive Right") on the terms and subject to the conditions hereinafter set forth:

1. Trigger of Preemptive Right. Except as otherwise provided herein, Grantor, and his, hers or its heirs, executors, administrators, legal representatives, successors, and assigns, shall not sell, lease, give, devise transfer by intestacy, mortgage, pledge, transfer or otherwise convey the Property, in whole or in part, or any interest therein, including any controlling interest in any entity such as a corporation, LLC or partnership owning the Property (any such transaction is hereinafter referred to as a "Conveyance"), without first offering to sell the Property to Grantee pursuant to this Preemptive Right. Where the Conservation Easement permits the conveyance of a separate legal parcel comprising a portion of the Property and Grantor seeks to effect a Conveyance of only such parcel, this Preemptive Right shall be deemed triggered only with respect to such parcel, and the term "Property" shall be deemed to refer only to such parcel.

2. Exempt Transactions. Notwithstanding the foregoing, the following Conveyances shall not trigger Grantee's rights hereunder:

(a) Any Conveyance of the Property to a member of Grantor's Family. The term "Family" means: (1) Grantor's spouse, (2) Grantor's parents; (3) Grantor's children, grandchildren, siblings, nieces, and nephews, together with any of their spouses; (4) a corporation, LLC, partnership, or other legal entity which is wholly owned and controlled by Family members; or (5) a trust of which Family members are the sole beneficiaries.

(b) Any Conveyance of the Property to a Qualified Farmer. The term "Qualified Farmer" means a person who, or legal entity which, will earn at least one-half of such person's or legal entity's annual gross income from the "business of farming," as that term is defined in Treasury Regulation 1.175-3 (or any successor regulation), in connection with the farming operations on the Property. Unless otherwise agreed by Grantee, any lease to a Qualified Farmer shall provide that it shall terminate and possession shall be delivered free and clear of any rights of the tenant upon a sale of the Property following exercise of this Preemptive Right.

(c) Any mortgage, pledge, or other assignment of the Property to a lender as security for an indebtedness of Grantor; provided, however, that any party seeking to effect a Conveyance of the Property as result of a default of Grantor in the payment of such indebtedness shall be bound by the terms of this Preemptive Right in the same manner as Grantor hereunder, and this Preemptive Right will survive and continue in full force and effect after any such Conveyance resulting from a default of Grantor.

3. Notice of Intent to Convey. Whenever Grantor is prepared to enter into a transaction constituting a Conveyance of the Property, including an Exempt Transaction as defined in Paragraph 2 above, Grantor shall so notify Grantee in writing. Such notice shall be referred to herein as "Notice of Intent to Convey." The Notice of Intent to Convey shall include:

(a) a counterpart original copy of any written agreement between Grantor and the proposed transferee relating to the proposed Conveyance, together with such other instruments as may be required to show that proposed transaction has been entered into in good faith;

(b) if to a Qualified Farmer, a written description of the proposed transferee's training and experience as an agricultural producer, together with an agricultural business plan for the Property, including a description of the agricultural activities to be conducted or facilitated by the proposed transferee, proposed improvements to the Property, and a statement of anticipated agricultural income and expenses for the three-year period following the Conveyance of the Property; or, if the proposed transferee has no such training and experience or intention of operating an agricultural business on the Property, a written statement to that effect; and

(c) if the proposed Conveyance is to a member of Grantor's Family or a Qualified Farmer, documentation sufficient to establish the proposed transferee as such, including the most recent federal income tax filing for any Qualified Farmer.

4. Exercise of Preemptive Right. If the Conveyance described in a Notice of Intent to Convey is not exempt from this Preemptive Right pursuant to Paragraph 2 above, Grantee may exercise this Preemptive Right by giving Grantor notice thereof ("Notice of Intent to Exercise") not more than thirty (30) days following receipt of Grantor's Notice of Intent to Convey. Failure by Grantee to provide such notice shall constitute a waiver of Grantor's rights under this Preemptive Right with respect to the proposed Conveyance that is the subject of such Notice of Intent to Convey.

5. Purchase Agreement. If Grantee gives Grantor a Notice of Intent to Exercise, Grantor and Grantee shall within thirty (30) days of delivery of said notice, or within ten (10) days of receipt of the appraisal if Option (a)(2) described below is selected to determine the Purchase Price, enter into a written agreement with respect to the sale of the Property (the "Purchase Agreement"). Unless otherwise agreed by the parties, the Purchase Agreement shall contain the following terms:

(a) **Purchase Price.** The purchase price for the Property (the "Purchase Price") shall be paid at the closing of title under the Purchase Agreement. The Purchase Price shall be determined by mutual agreement of the parties, but if the parties are not able to reach agreement on the Purchase Price prior to the execution of the Purchase Agreement the Purchase Price shall be the greater of:

(1) $_______________, representing the current value of the land comprising the Property, based solely on the Property's agricultural productivity (hereinafter "Agricultural Use Value") as of the date that this Preemptive Right is granted (which sum shall be adjusted based on acreage if only a portion of the Property is sought to be conveyed), plus an inflation adjustment determined by multiplying the foregoing value by one (1) plus the fractional increase, calculated from the date hereof, in the Consumer Price Index for all Urban Consumers, New York, All Items published by the Bureau of Labor Statistics, U.S. Department of Labor, or a successor index published by the United States government; or

(2) the Agricultural Use Value of the land comprising the Property assuming that its highest and best use is commercial agricultural production commonly occurring within the market area (defined as the geographic or locational delineation of the market for a specific category of real estate, i.e. the area in which alternative, similar properties effectively compete with the subject property in the minds of probable, potential purchasers and users) where the Property is located on the date that this Preemptive Right is exercised, as determined by a mutually approved disinterested appraiser selected by Grantor and Grantee, with the expense of such appraisal divided equally between Grantor and Grantee. This appraisal shall take into consideration the permitted and restricted uses set forth in, and the impact of value caused by, the Conservation Easement.

Permanently installed land improvements, like in ground irrigation systems, farm roads, and tiling, and the site(s) of any structure(s), shall be considered to be part of the land under both paragraph (1) and paragraph (2) of this Section 5(a).

In addition to the foregoing, the Purchase Price shall, under either paragraph (1) or paragraph (2) of this Section 5(a), include the value of any residential structures, improvements, appurtenances, or agricultural, forestry or other structures and improvements in existence on the land to be conveyed on the date that this Preemptive Right is exercised (excluding the value of the land where any such structures are located, which is included in the valuation above). The value of said structures and improvements shall be determined by a mutually approved disinterested appraiser selected by Grantor and Grantee using the replacement cost new, less depreciation, approach to valuation (i.e. the cost to replace the structures and improvements with those of comparable size and utility, less depreciation and functional obsolescence). The expense of such appraisal shall be divided equally between Grantor and Grantee. Provided, however, that the price paid for any residential structure (not including farm labor housing) and related accessory structures and improvements, together with the land upon which they are located, shall not exceed 200% of the most recent "Residential Median Sale Price" for ____________ County, New York, as determined by the New York State Office of Real Property Services, and if that index shall no longer be published, then by a successor index published by the State of New York, or other similar index selected by Grantee.

(b) **Grantee's Right of Entry.** Grantee shall have the right to enter upon the Property at reasonable times upon reasonable advance notice for the purpose of preparing for the purchase of the Property, including but not limited to performing appraisals, surveys, soils tests or engineering studies, or obtaining other information about the Property. Grantee's entry onto or testing of the Property shall be conducted in a manner that minimizes any disturbance to the land and the use and enjoyment of the Property by Grantor or any tenants in possession.

(c) **Closing.** The closing of the transaction contemplated by the Purchase Agreement will take place within sixty (60) days following execution of the Purchase Agreement.

(d) **Title.** Grantor shall use Grantor's best efforts to convey to Grantee by Warranty Deed good, clear, record and marketable title to the Property free of all liens, leases, tenancies, occupancies or other encumbrances, subject only to (i) customary utility distribution easements, (ii) rights of the general public to use public roads; (iii) rights of way and other easements that do not, in the Grantee's opinion, materially impair beneficial use of the Property; and (iv) the terms and conditions of the Conservation Easement. Grantor shall provide to Grantee copies of any existing title insurance policies, abstracts of title and survey maps of the Property. The state of title to the Property shall be determined by a title examination paid for by Grantee, and Grantee may obtain title insurance at Grantee's expense. In the event Grantor is unable to convey marketable title as required hereunder despite Grantor's best efforts (including the application of the Purchase Price to reduce any monetary liens), then Grantee may elect to terminate the Purchase Agreement and its exercise of this Preemptive Right or to accept such title as Grantor shall be able to deliver and pay the Purchase Price without reduction.

(e) **Hazardous Materials.** Grantor represents to Grantee that Grantor is not now aware of any "Hazardous Material" (including, but not limited to, any petroleum products fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment, except the term "Hazardous Material" does not include petroleum products, fertilizers, pesticides, herbicides, manure, and other substances used, stored or generated in the lawful operation of an agricultural operation) having been dumped or placed upon the Property, or of the existence of any violation of federal, state or local law related thereto. Grantor will update this representation in writing upon Grantee's delivery of Grantee's Notice of Intent to Exercise. In the event that Grantee discovers that any Hazardous Material has been found on the Property, or dumped or placed upon the Property, or that any violation law related thereto has occurred on the Property, Grantee may, at Grantee's option, terminate the Purchase Agreement and declare its exercise of this Preemptive Right to be null and void.

(f) **Prorations and Fees.** Grantor and Grantee shall prorate property taxes, assessments, fuel on the premises and rents as of the date of closing. Other fees and changes will be allocated in accordance with the customary practice in the county where the Property is located.

(g) **Further Improvements.** After Grantee delivers a Notice of Intent to Exercise, Grantor shall not enter into any leases or physically alter the Property or the improvements on the Property, except to perform generally accepted agricultural practices and normal repairs.

(h) **Casualty.** In the event any structure on the Property is substantially destroyed by fire or other casualty, Grantee may elect to (1) proceed to closing and accept the proceeds of any insurance policy Grantor may have with respect to such destruction; or (2) if such insurance proceeds are less than the value of the structure as determined by appraisal using the methodology described above in this Preemptive Right, proceed to closing and accept the proceeds of said insurance policy and reduce the purchase price by the difference between such contributory value and insurance proceeds; or (3) terminate the Purchase Agreement and withdraw its election to exercise this Preemptive Right.

(i) **Personal Property.** All personal property, livestock, machinery and equipment not included in the sale shall be removed from the Property, and all other waste and debris shall be removed from the Property prior to closing.

(j) **Assignment.** Grantee may by written instrument, a copy of which shall be delivered to Grantor, assign its rights under the Purchase Agreement to a third party who, in the reasonable opinion of Grantee, will use or will facilitate the use of the Property for commercial agricultural production, provided such third party undertakes to discharge all obligations of Grantee with respect to purchase of the Property.

6. Continuing Effect. This Preemptive Right shall remain in full force and effect after any Conveyance of the Property.

7. Confidentiality. All information delivered to Grantee pursuant to this Preemptive Right shall remain confidential and shall not be disclosed to any person or entity not a party to this instrument without the prior consent of Grantor, except as required by law.

8. Partial Release of Preemptive Right. If Grantee fails to timely deliver a Notice of Intent to Exercise or, if Grantee elects to terminate this Preemptive Right under the terms of the Purchase Agreement, or if Grantee fails to purchase the Property within sixty (60) days following execution of the Purchase Agreement, then at the request of Grantor, Grantee shall promptly execute and deliver to Grantor a document in suitable form for recording releasing

Grantee's rights hereunder in connection with the proposed Conveyance, and Grantor may proceed with the proposed Conveyance; provided, however, that the proposed Conveyance by Grantor to such prospective transferee must be completed within the twelve (12) month period following delivery of the Notice of Intent to Convey given with respect thereto. Any such partial release of this Preemptive Right shall state that it only releases this Preemptive Right for purposes of the specific Conveyance in question and that this Preemptive Right shall continue to be in effect for all other future Conveyances of the Property.

9. Assignment. Grantee may by written instrument, a copy of which shall be delivered to Grantor, assign its rights under this Preemptive Right to any private nonprofit organization that, at the time of transfer, is a "qualified organization" under §170(h) of the Code and is a conservation organization having among its purposes the preservation of open space, scenic, agricultural and recreational lands in the State of New York for the benefit of the public.

10. Subsequent Transfers of an Interest in the Property. The Grantor agrees to incorporate the terms of this Agreement in any deed or other legal instrument, including, without limitation, a transfer or sale, a lease or a mortgage of the Property, by which any interest in all or any portion of the Property is conveyed.

11. Successors and Assigns. This Preemptive Right shall be binding on and inure to the benefit of the parties and their heirs, executors, administrators, legal representatives, successors, and assigns.

12. Interpretation. The terms of this Agreement shall be interpreted in accordance with the laws of the State of New York. Any action, proceeding or claim against it arising out of or relating in any way to this Preemptive Right shall be brought and enforced in the courts of the State of New York, and the parties irrevocably submit to such jurisdiction, which jurisdiction shall be exclusive.

13. Recording. Any party may record this Preemptive Right or a memorandum of the existence of this Preemptive Right in the office of the clerk of the county where the Property is located.

14. Notices. Any notice or other communication required or which may be given hereunder shall be in writing delivered by certified mail, return receipt requested as follows:

If to Grantee:

Agricultural Stewardship Association, Inc.
14 Main Street, Suite 100
Greenwich, NY 12834

If to Grantor:

____
____
____

Notices shall be deemed given upon delivery by the U.S. Postal Service. Either party may change the address to which notices are to be sent to it by duly giving notice to the other party

15. Severability. This Preemptive Right shall be deemed severable, and the invalidity or unenforceability of any term or provision hereof shall not affect the validity or enforceability of this Preemptive Right or of any other term or provision hereof. Furthermore, in lieu of any such invalid or unenforceable term or provision, the parties hereto intend that there shall be substituted therefor as a part of this Preemptive Right a valid and enforceable provision as similar in terms to such invalid or unenforceable provision as possible. In the event that a court of competent jurisdiction declares this agreement to be invalid due to the operation of the Rule Against Perpetuities, or similar law, then this agreement shall be interpreted to be valid for 21 years from the date of its execution.

16. Representations and Warranties of Grantor. *{If Grantor is Corporation}* Grantor represents and warrants to Grantee as follows:

(a) Grantor is duly organized, validly existing and in good standing as a corporation under the laws of the State of __________________ and is authorized to do business in the State of New York;

(b) Grantor has all requisite corporate power and authority to execute, deliver and perform its obligations under this Preemptive Right;

(c) the execution and delivery of this Preemptive Right, and the performance by Grantor of all of its obligations hereunder, have been duly and effectively authorized by all necessary corporate action on the part of Grantor and this Preemptive Right has been duly executed and delivered by authorized representatives of Grantor;

Each of the foregoing representations and warranties is material and is relied upon by Grantee.

17. Acceptance. As attested by the Seal of Grantee and the signature of its duly authorized officer, Grantee hereby accepts this Preemptive Right.

TO HAVE AND TO HOLD this Preemptive Right unto Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, Grantor and Grantee, intending to be legally bound hereby, have hereunto set their hands on the date first above written.

Grantor:

____

[name, title]

Grantee:
Agricultural Stewardship Association, Inc.

By: __________________________________
Teresa Ptacek, Executive Director

STATE OF NEW YORK)
) SS.:
COUNTY OF)

On the _____ day of ___________ in the year 2008 before me, the undersigned, personally appeared __________________, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity (ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

____
Notary Public

STATE OF NEW YORK)
) SS.:
COUNTY OF)

On the ____ day of _______________ in the year 2008 before me, the undersigned, personally appeared **Teresa Ptacek**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity (ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

____
Notary Public

<u>Exhibit A</u>
Property description

A New Lease on Farmland:
Assuring a Future for Farming in the Northeast

by Susan Witt and Jay Rossier

Edited by Hildegarde Hannum

Originally published in 1990 by the E. F. Schumacher Society
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www.schumachersociety.org

Farmland Preservation: A First Step

Here in the Northeast, the past several years have seen a tremendous boost in public awareness of the importance of farmland preservation. With public money in short supply, many local communities like those in the southern Berkshires have taken matters into their own hands by instituting nonprofit conservation land trusts. As private, locally based organizations these trusts have been been able to be flexible and act quickly in order to purchase large amounts of farmland as it comes to market, preserving it for future generations. This is a major accomplishment.

As members of a land trust, you and your organization are undoubtedly aware that in spite of this effort, farming in the Northeast continues to decline. You have probably seen that buying development rights or using other legal means of preventing building on farmland in your area has not necessarily guaranteed that it continues to be farmed. Preserving farmland is an important first step toward encouraging a solid regional agricultural base, but it is only a first step.

As organizations actively working with ecologically conscious farmers here in the Northeast we—the sponsors of this document—are concerned about this decline. We have considered the difficulties involved with preserving farming and would like to share with you some ideas for ensuring the full productive and responsible use of farmland that you have helped, and are helping, to conserve.

The Changing Nature of Farming in the Northeast

To preserve farming is not necessarily to preserve farms as they have existed over the past half-century in this region. Changing demographics and new understanding of the needs of people and the soil have created constraints and opportunities that will determine the composition of our farm population and our farmland into the next century. What might a sustainable agricultural community look like in the near future?

Resource Conservation

Clearly, agriculture in the Northeast will have to continue to protect and enhance the soil, water, and human resources that make food production possible. Farming methods that gradually improve soil fertility and water-holding capacity rather than cause water contamination or soil erosion require large investments of time, material, and husbandry on the part of a farmer.

Diversity

A farmer dependent on only one crop may be forced by financial considerations to take drastic measures to save the crop from pest infestation or adverse weather conditions, at the expense of responsible stewardship of the land and natural resources. Sound resource conservation, on the other hand, requires crop diversity. Diversity allows for partial crop failure and contributes to the integrity of sustainable farming practices.

Diversity means smaller yields of multiple crops rather than large yields of one crop. The milk truck cannot afford to make its way down a long bumpy dirt road for only a few hundred pounds of milk. The new Northeast farmer will have to identify varied, smaller markets close to the farm.

Smaller-Scale Farms

In the more urban areas of the Northeast, populations continue to grow. One of the results of this growth is that in some areas more land will be needed for housing, manufacturing, and recreation—with less available to the farmer. The neighbor’s pasture where the heifers have always been kept may be sold to the condominium developer.

The need for farmland-preservation efforts in these areas will be acute. Even after the purchase of development rights or other forms of restriction the cost of land purchase may remain high, perhaps prohibitively so for a farmer requiring large amounts of acreage.

New Markets

On the other hand, growing Northeast population centers also promise new opportunities for direct marketing of crops, which for many farmers is the critical edge that sustains an agricultural enterprise. The smaller grower who uses little or no dangerous chemicals can produce a high quality product on few acres with minimum adverse impact on nonfarming neighbors.

Already, a newly health-conscious public is demanding more nutritious, higher-quality food. People want to know that what they eat was grown without polluting the environment. They want to know that it is fresh and that nonrenewable fossil fuels have not been extracted and burned in order to transport it over a large distance.

Perhaps most importantly, it is clear to the public that buying food locally can have a direct effect on the quality of the scenic quality of the area. They understand that when they buy from a local farmer, they are helping to preserve the rural character of the landscape and the neighborhood.

A Longer Vision

The requirements for producing food for these new markets are the same as those for producing food in an ecologically sensitive manner that conserves land and natural resources. The new Northeast farmers will run smaller, more diverse, more labor-intensive farms. They will pay careful attention to the health of available soil and water resources.

This kind of farming requires longer-term planning than is customary in other businesses, even in most farm business planning. A five-year agreement is a significant commitment in some kinds of enterprises, but to a steward intent on bringing the land to full health, a process that might last a lifetime or several lifetimes, five years is merely a beginning.

The Changing Nature of Farmers in the Northeast

Their Background

Most of the young farmers in the Northeast today have not inherited their farm from their parents. They probably have not grown up in the town in which they farm. Many will not have grown up on farms at all.

In fact, today’s ecologically conscious farmers are often generations removed from the farm. They read the work of Wendell Berry, are active members of the Northeast Organic

Farmers Association, or have had training in sustainable agriculture techniques at such places as the Land Institute or the New Alchemy Institute. They are thinking globally and acting locally by producing food in the best way they know how.

The new farmers are broadly educated and have nonfarming career options. They have chosen farming, and they therefore can and must be choosy when they embark on an agricultural enterprise. They will commit themselves only if they feel they can succeed both ecologically and economically.

Their Situation

Today's new farmers are likely to be in their thirties and ready to establish a home and a family. They need security in order to build a livelihood and a life.

Part of their security will lie in their own skills and expertise. In order to run a business they need the independence to operate as they see fit, within a structure that secures the land from damage by ill use. Often they have capital and are looking to invest it in their future. As businesspersons they expect a return on that investment.

If we in the Northeast are to preserve farmland for future generations, we must address the needs of these farmers. They have the skills, the knowledge, and the passion both to farm well and to make a living at it. They are the people who can maintain and improve the farmland you and your organization preserve, but they need help.

A New Lease on Farmland: Responding To Change

Conservation land trusts in the Northeast have been eager to attract environmentally concerned farmers for their farmland. As organizations depending on volunteers they frequently resort to a short-term lease with terms that are simple to monitor. A lease might require only that the fields be cut twice a year. The organization relies on one of its members driving by to check for compliance.

Short-term leases, however, invite short-sighted farming practices. Without the incentive to plan for future generations a farmer, as a businessperson in a highly regulated market environment, may have to force the highest and quickest yield without adequate attention to the health of the soil.

If owners of farmland in the Northeast are to attract and retain the ecologically committed farmer, they must be prepared to offer farm leases that incorporate long-range concerns.

Partnership

The land, the farmer, and the community (represented by a conservation land trust) all can be equal partners in a carefully developed long-term lease of farmland. By taking the time to prepare a thorough land-use plan for a farm and clarifying such use in the written lease, the conservation land trust can retain enough control to assure that the land is improved instead of degraded or left fallow, and the farmer can be given enough flexibility, independence, and security to make crucial business decisions while farming in a sustainable manner. There are several critical elements to a farmland lease that will make it possible for a farmer to farm responsibly.

Land-Use Planning

A land-use plan should designate the location of existing farm and residential buildings and should include a careful analysis of the soils and terrain and possible water sources on a piece of farmland. A good plan will divide the land into different sections based on these natural conditions, and will specify upper and lower limits to the intensity with which the lease allows each of these sections to be farmed.

Most intensive use might be an organic market garden, while least intensive might require that a field be mowed at least once a year. Permitted tillage methods might also be delineated in a land-use plan.

The plan should also specify where residential and farm buildings should be located. The placement of buildings must serve the residential and farm needs of the farmer in a way that minimizes their adverse impact on the agricultural land and on neighbors as well. Buffer zones designed to minimize the impact of all farm activity on neighbors should also be designated in the plan.

A land-use plan is not a farm plan, which is the concern of the farmer and the investors in the farm enterprise; rather, it is a statement by the farmland owner of the conditions under which the land may be used. If a conservation land trust has identified a particular farmer as the future lessee of farmland, it is important for that farmer's input to be included in the land-use plan. But the prime responsibility for developing the plan rests with the lessor. A farmer considering a lease can then quickly evaluate whether or not the land's potential, as defined by the land's owner, will address the farmer's interest.

Once committed, the farmer is free to change a business plan as local markets change, without renegotiating with the land owner. The land use plan provides the framework for protecting the natural resources of the land, but the farmer is independent within that framework.

Security

A long-term lease gives the farmer the long-term security usually associated with ownership of land. Improvements in soil fertility and productivity occur very slowly, and farmers need to know they will be able to reap the benefits of improvements that may take them ten or more years to realize.

For many kinds of enterprises, a farmer needs the security of a lifetime lease. Community land trusts use ninety-nine-year leases, with rights of transfer and renewal. This leaves no ambiguity as to the landowner’s intent and also provides security for the investor in the farm enterprise. For example, a bank would be unlikely to consider a fifteen-year investment in farm equipment if a lease of the land ended after ten years.

Ownership of Improvements

Of course, unforeseen circumstances do occur, and farmers need to know that should they have to give up their lease, they can retain the value of the improvements they have made in the farm. A barn and an orchard represent investments that a farmer must be able to capitalize at resale. A properly written lease can allow farmers to sell those assets that are a result of the skill and hard work they have applied to the land.

Only with ownership of the improvements can farmers afford to invest themselves and their capital in a piece of land. Without these investments, farmland will not be preserved as farmland.

Continued Affordability

While it is of the greatest importance that farmers be able to sell the improvements they have made in and on the land, it is equally important not to sell them at a speculative price that prohibits another farmer from buying them. The land can remain productive only if the improvements remain affordable.

A thoughtfully written lease can limit the price of improvements at resale. A nonprofit organization can accomplish this by holding a first option to repurchase buildings and improvements at a formula price. One formula, for instance, requires the buildings and improvements to be assessed independently of the land at current replacement cost at the time of sale. Assessors can be local farmers, extension agents, real estate agents, contractors, Soil Conservation Service scientists, or other suitable experts.

The average of three assessments would determine the cost for the nonprofit organization to purchase the improvements. The new farmer can then repurchase the improvements from the nonprofit for the same nonspeculative price, which keeps costs affordable.

Low Land Cost

High land prices in the Northeast make starting a profitable farm difficult. The income from a small-scale, intensive operation, even when complete with nearby markets, cannot carry the debt incurred by land purchase. A lease at a low monthly cost will allow farmers to invest their capital in equipment and supplies rather than in land payments, thus making the farm more productive.

Initially the monthly lease fee should at least cover local taxes on the land and buildings, insurance on the land, any town recycling fees, and fire department assessments as well as the cost of establishing and managing the lease. Eventually the lease fee should include a fair rent for the land itself. One way to determine this is to calculate the value of the land as farmland and determine comparable rentals for farmland in the region. The ground rent for that portion of land with existing or potential buildings should similarly be determined using comprable building site values in the region.

The nonprofit expenses for overseeing the lease are paid from the management fees, but the ground rent for the land itself is placed in a separate fund for the purchase of new farmland. This policy ensures that the farmers helped by the initial community effort, contribute to helping future farmers gain access to the land. The process stays dynamic.

In Summary

By offering long-term, low-cost leases under which ownership of improvements rests with the lessees, conservation land trusts can help ensure that the farmland they preserve remains actively farmed by local resident farmers.

Organizational Implications For Land Trusts

Long-term leases will require a long-term commitment to their management. This may present a challenge to conservation land trusts which have traditionally been volunteer organizations. In addition providing equity to individual leaseholders may jeopradize the charitable status of your organization as a purely conservation-oriented group. Your conservation land trust may need to establish a separate management group or corporation to hold in trust that land on which equity leases have been granted and to oversee compliance with the terms of the leases. Or you may want to work closely with another nonprofit organization in the area with similar goals.

Community Land Trusts and Lease Management

Community land trusts can be an important resource for conservation land trusts because the former are experienced in management of long-term leases that provide for ownership of improvements. In order to make these improvements (primarily housing) affordable to the next buyer, community land trusts hold first option to repurchase them at a nonspeculative price. Community land trusts are nonprofit organizations with membership open to anyone within a given region. As such they serve local areas that often overlap those of conservation land trusts. They work with land-use planners, lawyers, and investors in preparing lease agreements. They also work with leaseholders to encourage as much self-management as is appropriate in order to lower costs for and maintain the independence of those leaseholds.

A conservation land trust might also consider forming its own community land trust as a separate but related management organization should the number of productive farm leases represent a significant part of the income and activity of the conservation land trust. Those portions of the land donated to the conservation land trust that are productive farmland could be turned over directly to the community land trust for management. Any lease income from the land over and above expenses would be returned to the conservation land trust to establish a fund for purchase of additional land.

The Community Land Trust in the Southern Berkshires in cooperation with the E. F. Schumacher Society has written lease agreements, particularly for agricultural land, and continues to refine these documents through actual practice. Either of these organizations may be contacted for information or consultation.

Repurchase of Improvements

Whatever form the management group takes, it is responsible for collecting lease fees and monitoring fulfillment of the terms of the lease, including the use of its first option to repurchase the farmer's home and farm improvements at a formula price in order to keep them affordable for the next farmer. In order to exercise this option the management group must actively seek potential farmers by maintaining a list of those interested in purchasing improvements and leasing the land for farming. It can then proceed to resell the improvements to another farmer at an affordable price.

In Summary

The preservation of farmland for productive agricultural use will require an active commitment and responsibility to long-term land management. This will mean working with leaseholding farmers as they adjust to changes in farm practices, changes in farm markets, changes in human circumstances.

As a local membership organization your land trust has the resources, knowledge, and capability to best provide the continuity necessary for land management. It may be a new role for you as a volunteer organization, but it is a role critical to the future of farming in your region.

It Takes More Than Land

Your responsibilities for farmland preservation do not end with the lease arrangements. A conservation land trust, through its management group or in cooperation with other nonprofit groups in the region, may have to take additional steps to support farm activity on its land.

Low-cost capital and secure markets are two important factors in a successful farm operation. Federal loan programs at one time provided the best source of low-cost financing for farmers, but they were geared to large conventional farm practices with land as security. In the past secure markets meant a large supply of a single crop.

It may well be up to you to help develop a new form of financing and marketing for this new kind of farm and farmer if your land is to be actively farmed. Your members, already committed to farmland preservation, may at the same time be interested in investing in their own food supply by lending capital or guaranteeing to purchase a percentage of the farm’s produce.

Revolving Loan Fund

The Fund for Affordable Housing in Great Barrington, Massachusetts, for example, is a low-interest loan fund that accepts investments from local investors, paying them interest equal to the rates of simple passbook savings accounts. It then loans these funds to first-time home buyers at a rate just above the interest paid to investors. Many of the investors are vacation-home owners (an important but often neglected resource). In the same manner, local farmers could attract investors to a similar fund for affordable farming.

Loan Collateralization Fund

The Self-Help Association for a Regional Economy, also in Great Barrington, pools the funds in individually-owned passbook savings accounts of small investors at a local bank. The owners of these accounts—SHARE's members—agree to let their funds be used to collateralize loans to small businesses that cannot otherwise obtain financing. Members form committees to review and accept or reject collateralization applications. The bank charges 4% for administering the loan with no risk involved. Members earn 6% on their accounts. Thus, the total cost of the loan to the borrower is 10%, about half the cost of conventional financing.

SHARE has collateralized loans to farmers for equipment, seed, and building improvements.

Self-Financing Mechanisms

With the help of SHARE, two farm stands in Great Barrington have jointly issued vouchers or coupons that they sell in late fall when cash is short and then redeem in summer when the cash flow is greater. Called "Berkshire Farm Preserve Notes," they are sold for $9 and are redeemable for $10 worth of farm produce at either stand from June through September. In the first year of operation customers of the two farmstands purchased a total of $6,000 worth of Notes, representing a low-interest short-term loan to the farmers.

When a similar self-financing program began at a local restaurant, the notes were accepted by several Main Street stores as payment for merchandise and by a few nonprofit organizations for membership dues, encouraging circulation and adding to the incentive to buy the notes.

Community Supported Agriculture

In the Community Supported Agriculture model a committed group of consumers agrees to assume the financial risk for the annual costs of operating a farm. They calculate a budget in order to divide the entire cost of a season's production among the membership. The farmer is paid a fixed salary in advance. At harvest time the members take home their weekly share, whether a bumper crop or a reduced yield owing to unfavorable weather conditions.

The Return to You

The success of these local financing and marketing programs depends on the degree to which the local community identifies with its farms and farmers. You can encourage that identification through articles in your newsletters to members, through sponsoring farm celebration days, and through work days at planting and harvest time. This kind of participation and celebration will in turn make your farmland preservation efforts even more effective, at the same time introducing community awareness and camaraderie that not only establish good public relations but also foster real community.

People, Land, and Community

Your group knows that the health and character of the community are inextricably associated with the health and character of the land. Restricting the use of certain scenic or environmentally sensitive parcels is critical to maintaining the quality of life in rural areas.

But true farmland preservation implies active use of the land, use in the best sense. The land must be farmed in an intelligent and ecologically sound manner that improves the quality of the soil and water and maintains open space in a nonpolluting, productive working landscape. To insure such use requires more than restrictions. It takes positive encouragement in the form of affordability and long-term security of tenure and investment.

Perhaps most importantly, farmland preservation requires the patterns of mutual responsibility that constitute local culture. Ultimately, preserving farmland is about preserving community. The social and economic forces that affect both must be taken into account. Only in this way can we maintain the complex web of connections between people and land, a web that sustains them both.

. . . [I}f we conceive of a culture as one body, which it is, we see that all of its disciplines are everybody's business . . . To such a mind [competent in all its concerns] it would be clear that there are agricultural disciplines that have nothing to do with crop production, just as there are agricultural obligations that belong to people who are not farmers.

A culture is not a collection of relics or ornaments, but a practical necessity, and its corruption invokes calamity. A healthy culture is a communal order of memory, insight, value, work, conviviality, reverence, aspiration. It reveals the human necessities and the human limits. It clarifies our inescapable bonds to the earth and to each other. It assures that the necessary restraints are observed, that the necessary work is done, and that it is done well. A healthy farm culture can be based only upon familiarity and can grow only among a people soundly established upon the land; it nourishes and safeguards a human intelligence of the earth that no amount of technology can satisfactorily replace.

- —Wendell Berry,
  The Unsettling of America: Culture and Agriculture

http://practicalfarmers.blogspot.com/2010/05/land-ownership-statistics-in-iowa.html

Land Ownership Statistics in Iowa

Check out these sobering facts compiled by

Hannah Lewis, Jan Flora, Andy Larson, John Baker, and Lynn Fallon.

INCREASING AGE OF LANDOWNER

- In 2007, more than half the farmland (55%) in Iowa was owned by people over the age of 65 (compared t o 30% in 1982) (Duffy 2008)
- The increasing age structure of farmland owners show no sign of abating and continues to move toward an older population of landholders (Duffy 2008)
- The increase in the average age of farmers is a result of inadequate incentives to encourage young farmers to enter into the profession and reluctance on the part of existing farmers to retire (Baker 2008)

INCREASING ABSENTEE OWNERSHIP

- 21% of Iowa farmland is owned by those who live out of state either full- or part-time (Duffy 2008)
    - an estimated that $523 million of land rents left the state in 2009 (Arbuckle 2010)
- Absentee landownership is likely to increase (Arbuckle 2010)
- Landlord-tenant relationships are stable, but deteriorate with distance(Arbuckle 2010)
- Landlord stewardship ethics are strong, but decline with distance(Arbuckle 2010)

INCREASING NON-FARMER OWNERSHIP

- Sixty percent of Iowa's farmland in 2007 was owned by people not currently farming (compared to 55% not currently farming in 2002) (Duffy 2008)
    - Widowed persons own 19% of the land
    - Investor ownership is on the rise
    - Trusts are being used increasingly as a mechanism for land transfer, encouraging non-farming landownership
    - 26% of land is owned by those who have never farmed

INCREASING SIZE OF LANDHOLDINGS

- The percent of land owned in less than 80 acre blocks has decreased from 40% of the land in 1982 to 11% of the land in 2007 (Duffy 2009)

- During the past 55 years, the number of Iowa farms has decreased from 206,000 to 89,000 (Baker 2008)

INCREASING AMOUNT OF LAND IN CASH RENT

- In 2007, more farmland in Iowa was under a cash rental arrangement than was owner-operated (46 versus 40 percent, respectively) (Duffy 2008).
    - Of rented land, 77% was under a cash arrangement, with the remaining amount in crop share leases (compared to 50% under cash rent in 1982). Women landowners are somewhat more likely to have a crop-share arrangement than are their male counterparts. Crop-share relationships last longer than cash-rent arrangements (Duffy 2008).
- Younger farmers tend to be much more dependent on rented land(although smaller farms are *less* dependent on rented land) (Arbuckle 2010).

COMMON METHODS OF LAND TRANSFER

- Ownership of most land is obtained through purchase (73%). The remainder is acquired via inheritance (23%) or as a gift (3%). Gifting is gaining in popularity (presumably at the expense of inheritance). Trusts are also being used increasingly (Duffy 2008).

DIFFICULTY OF TRANSFERING TO A SUCCESSOR

- Only 27% of farmers have identified their successor (Baker 2008)
    - farms with gross sales less than $250,000 had identified successors fewer than 25% of the time (Baker 2008)
- Often the older generation fails to fully train their successor on intricacies of running a farm business (Baker 2008)
    - they hold onto the decision-making power their entire lifetime, only relinquishing that power upon death

RELUCTANCE TO LEAVE FARMING AT RETIREMENT AGE

- The choice to semi-retire is the most popular choice of respondents of this survey (Baker 2008)
    - part of the reason so few farmers plan to fully retire is the need for income throughout their retirement years
- Fifty-five percent indicated they would not be moving from their current home
    - that means the successor must live somewhere other than the base of operations
- The complexity of farm transfers is due to three conflicting objectives:(Baker 2008)
    - maintaining a viable farm business for subsequent generations

- fair and equal treatment of family members
- retirement provision of the current operator

· A large majority (80%) of current farmers favor programs for new/beginning farmers (IFRLP), such as expansion of loan and beginning farmer tax credit programs, mentoring programs that, outreach programs that link absentee landowners with beginning farmers, succession planning assistance development of markets for alternative crops.

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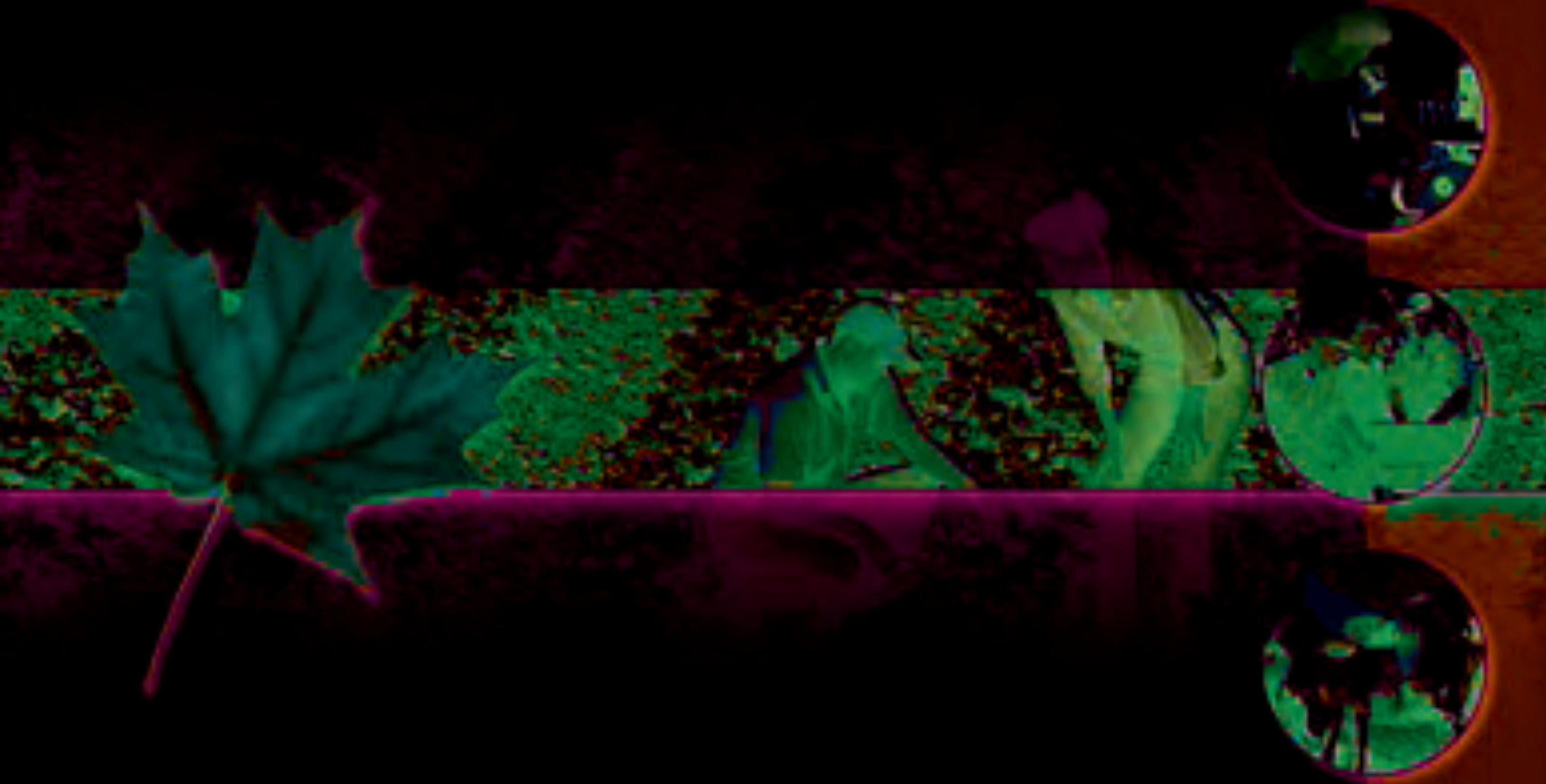

2009 Dialogue Tour on YOUNG FARMERS And Farm Transfers

What We Heard: Report from November 2009 Roundtables

Canada

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EXECUTIVE SUMMARY

In November 2009, the Honourable Jean-Pierre Blackburn, Minister of Veterans Affairs and Minister of State (Agriculture), hosted half-day roundtables on young farmers and farm transfer issues in five cities across Canada. Through these roundtables, he spoke with young farmers, agricultural students, agricultural academics and industry representatives. The goal was to better understand the challenges and opportunities facing young and aspiring farmers, and those who wish to transfer their farms. These dialogues highlighted considerations relevant to the future of agriculture and agri-food policy.

Young and beginning farmers are key to the revitalization of the sector. Like the Canadian population in general, the average age of farmers is increasing. The sector's capacity to attract and retain young farmers is, therefore, an important challenge. Beginning farmers face specific challenges such as access to capital, access to farm assets, and high debt levels. Nevertheless, young people continue to enter the sector with an energetic entrepreneurial spirit, respect for the environment, innovative ideas and new ways of doing business.

Participants identified a need for a more positive, balanced view of the sector, one which acknowledges its challenges but also recognizes its opportunities and rewards. While the challenges for new farmers are significant, Canadians are generally not aware of the many opportunities for success that Canadian agriculture offers to those entering the sector.

To attract new entrants, producers need to focus on their own strengths, opportunities, and successes, and actively communicate these accomplishments to all Canadians.

The roundtable discussions drew attention to the need for better access to information about tools, programs and services available for beginning farmers. Many federal and provincial programs aimed at beginning farmers and farm transfers were unknown to participants. Students and producers reported difficulty in finding information on farm programs in general, and more specifically, difficulty in finding out whether they are eligible for a program. The roundtables highlighted a need to improve access to information on programs and services.

The roundtable discussions highlighted the complexity of farm transfers. Roundtable participants also mentioned various tools that are, or could be, used to facilitate farm transfers. These include technical and professional advice, and modernization of the tax system in areas such as: increasing the lifetime capital gains exemption, broadening the definition of "family" for intergenerational farm transfers, and developing savings plans specifically designed to facilitate farm transfers and farm retirements.

Finally, the roundtable discussions underscored that agricultural policy must take into account a diversity of business models and foster opportunities emerging in Canadian agriculture.

INTRODUCTION

In November 2009, the Honourable Jean-Pierre Blackburn, Minister of Veterans Affairs and Minister of State (Agriculture), hosted half-day roundtable discussions with industry stakeholders in order to better understand the challenges and opportunities they face with respect to young farmers' establishments and farm transfers. This report aims to capture the main points which emerged from the discussions, and to highlight considerations relevant to future agriculture and agri-food policy.

The roundtables were held in five locations which were selected to ensure that the Minister had the opportunity to reach out broadly and hear diverse perspectives from the Atlantic to the Pacific. The scheduled locations and dates for the tour were:

November 9, 2009, Guelph (Ontario)
November 10, 2009, Truro (Nova Scotia)
November 12, 2009, Saskatoon (Saskatchewan)
November 13, 2009, Abbotsford (British Columbia)
November 17, 2009, Saint-Hyacinthe (Quebec).

5 INTRODUCTION

In order to better understand the challenges and opportunities associated with young farmers and farm transfers from different perspectives[1], the Minister met with:

- agricultural students, including many who intend to become or who already are agricultural producers;
- producers (beginning and retiring) because they have first-hand experience with the challenges related to getting started in agriculture and farm transfers;
- representatives of industry associations[2] interested in young farmer issues;
- agriculture professors, to benefit from their expertise on the challenges and opportunities of becoming established in agriculture and their comprehensive knowledge of the sector; and
- representatives from co-operatives, because of their importance in rural/agricultural communities.

In total, more than 100 participants attended the roundtable sessions, with approximately 25 to 40 participants in each regional session. Several Members of Parliament attended the meetings as well.

Each half-day roundtable was divided into three sessions:

1. A dialogue with professors;
2. A dialogue with students; and
3. A dialogue with industry representatives, including young farmers, aspiring farmers, farmers who wish to transfer their farm, and representatives from the co-operatives sector and industry associations.

Sessions began with a brief overview of the federal government's understanding of the issues facing young farmers and those who wish to transfer their farms, as well as a description of federal programs that have been implemented to address these issues. Participants then provided their views on the following questions:

- What are the main challenges to the renewal of the agriculture sector in your region or production sector?
- Do young people who wish to enter the sector have the tools needed?
- Do farmers who wish to transfer their farm have the tools needed?
- Are there opportunities to improve and to maximize the existing tool set?
- Are there gaps?

While this report tries to capture the essence of all the ideas that arose during the discussion, it is a summary, and therefore does not include every specific comment put forward. No attempt was made to evaluate the factual accuracy of any viewpoint expressed nor to reconcile opposing points-of-view.

We have also taken into consideration the views of other industry stakeholders who expressed an interest in sharing their views with Minister Blackburn on other occasions and in varying formats.

Participants spoke eloquently about the challenges that they and their families face in pursuing a career in agriculture. Concern was expressed about the future of agriculture in Canada, but participants also showed interest, enthusiasm and a strong entrepreneurial spirit – particularly the young producers actively engaged in farming.

While areas for government action were extensively discussed, there was also recognition by many participants of the need for producers to take responsibility for their own farm business, and to explore ways of co-operating with one another more effectively. At every session, we heard that some farm business models were no longer viable due to changing market and economic conditions. However, there is a willingness to experiment with new business models and an acknowledgement that different models can achieve viable farm operations.

[1] Agriculture and Agri-Food Canada (AAFC) identified participants in collaboration with agricultural colleges or faculties and industry associations. The following criteria served as guidelines for selecting young participants: young (under 35 years of age) farmers from various production sectors; young people interested in getting established on a farm from central and outlying regions, and from farm and non-farm families.

[2] These industry associations included: Agricultural Producers Association of Saskatchewan, BC Agriculture Council, British Columbia Young Farmers Association, Canadian Young Farmers Forum, Christian Farmers Federation of Ontario, The Centre for Rural Leadership, Fédération de la relève agricole du Québec, Nova Scotia Federation of Agriculture, Nova Scotia Young Farmers Forum, Ontario Federation of Agriculture, and Ontario Pork.

HOW CANADA'S AGRICULTURE SECTOR CAN ATTRACT NEW FARMERS

There are challenges as well as opportunities that come along with starting a business in any sector. While the challenges for new farmers are significant, Canadians are generally not aware of the many opportunities for success that Canadian agriculture offers to those entering the sector. To attract new entrants, producers need to focus on their own strengths, opportunities, and successes, and actively communicate these accomplishments to all Canadians.

1) Uncertainty in Agriculture

During the meetings, students indicated that it can be difficult for some prospective job seekers to select agriculture as a career and make the required long-term investment and commitment, with the perception of agriculture as sometimes synonymous with uncertainty and unpredictability. Some students would prefer the more constant and predictable wages available in other industries. They know that many farm families have off-farm jobs to ensure adequate and predictable cash flow. For many students who participated, this unpredictability in farm incomes also influenced their decisions of farm type and the nature of family farm takeover (whether in partnership with a family member or on their own).

Participants also spoke of the unpredictability of markets and commodity prices. A number of students felt that the future of supply management may be uncertain due to international trade negotiations and are hesitant to borrow money to invest in supply-managed sectors. Some participants desired a 'guarantee' from government that supply management would remain in place over the long-term.

2) Profitability in Farming

A number of individuals in attendance expressed concern about the uncertainty of profitability in the sector and the negative effect this perception has on attracting new entrants.

Some pressures on the sector's profitability that the participants identified were: the cost of land, buildings, equipment, labour, inputs and transportation, and governments' desire to keep the price of agricultural products down in an effort to supply 'inexpensive' food to Canadians. However, not all segments of the sector were viewed as succumbing to these pressures. In fact, some in attendance viewed the supply-managed sector as more stable and profitable.

Those in attendance suggested that the government could help to improve the profitability of the sector by: securing markets for producers' products; assisting farmers to adapt to changing markets; investing in innovation; and examining whether or not government programs have helped farmers continue their business when they should have exited the sector. Some also suggested that producers need to focus on costs and profits and be active in marketing their products through mechanisms such as marketing clubs.

A lack of profitability was seen as an issue in attracting and retaining farmers of all ages. In Nova Scotia and Saskatchewan, several students related stories about their parents discouraging them from entering farming due to the lack of profitability in the sector. However, it was noted in one of the sessions in British Columbia that there is no problem in attracting new entrants to areas of farming which are profitable. It was felt that the key to attracting a new entrant to the sector was establishing a profitable business model, celebrating the successes of farms and farmers, and improving awareness of future opportunities in the agriculture industry.

3) Competitiveness of the Agriculture Sector

There were many dialogues on the competitiveness of the Canadian agriculture sector at the roundtable sessions. Many participants expressed concern about the competitive position of agriculture within Canada and relative to other countries.

Specifically, Canada's costs of production were viewed as higher than those in other countries such as China, the United States and Mexico, making it difficult for Canadian producers to compete. Participants stated that farmers in these countries can use certain chemicals (pesticides) that are illegal in Canada. Furthermore, participants felt that they were at a competitive disadvantage as producers in these countries may not be subject to the same taxes, and are not required to meet the same health and safety, labour or environmental regulations.

A number of attendees stated that cheap imported foods have undermined local production. In one meeting, attendees identified a disparity between provinces in terms of financial support available to farmers. Some participants also stated that Canada's supply management system started out as a good idea, but has outlived its usefulness. It was argued that the supply-managed sector is not focused on market development and consequently misses many opportunities; it focuses on managing supply rather than stimulating demand.

Many solutions on how to improve the sector's competitiveness were proposed throughout the sessions. It was suggested that the government needs to open new markets and address trade barriers. Participants highlighted the importance of addressing regulatory barriers that put producers at a competitive disadvantage with foreign producers, and demanding reciprocity in terms of standards when trading with other countries.

In addition, participants provided many recommendations regarding the government's role in supporting local food production to create a domestic competitive advantage. They argued that governments should be involved in promoting and marketing local products; they should tax imports to raise prices to match local products; and should demand greater accountability from grocery stores for supplying local products.

Finally, more generally, attendees proposed: more support for processors; improvements to product labeling to respond to increasing consumer interest in knowing where their food comes from; leveling the playing field for Canadian producers inter-provincially within the sector; and supporting innovation in the sector (e.g., through bio-economy opportunities and functional foods).

CHALLENGES AND COSTS ASSOCIATED WITH GETTING STARTED IN AGRICULTURE

Generally, beginning farmers need to purchase land, equipment, inputs, quota, etc. to get started in agriculture. They may also encounter challenges in finding qualified labour and appropriate training for themselves when trying to start their business. Without proper access to these essentials, an aspiring or beginning farmer may find it difficult to pursue their profession. That having been said, some new farmers have found innovative ways to start their farm businesses without large initial capital investments. For example, some young farmers in Saskatchewan mentioned that renting, rather than buying their land and their equipment, enabled them to start their businesses.

1) Access to Capital

Participants discussed the 'huge' start-up costs associated with getting started in farming and their inability to gain access to necessary capital. A number of students were especially concerned about the high costs of entering the supply-managed sector (e.g., the cost of quota, land, buildings and animals) and the high market value of agriculture enterprises. Many students felt that if their parents did not own quota, they might not be able to enter the supply-managed sector. Also, new entrants may not have the same access to programs as existing farmers because they do not meet the minimum farm income test required to access this assistance.

With respect to capital and the supply-managed sectors, a number of participants felt that new entrants should be able to start up a supply-managed enterprise without having to acquire quota or by being allowed to purchase quota at a reduced cost. Another participant proposed making the entry-level requirements smaller in terms of the minimum number of animals, as well as allowing on-farm value-added processing, without having to buy processor quota. It was also noted that loans under the *Canadian Agricultural Loans Act* (CALA) program should be available to purchase quota.

On a broader scale, attendees put forward a number of financing options to improve access to capital. These included: providing risk capital, capital grants, patient capital[3], a savings fund modeled after the Home Buyers' Plan and interest-free loans to new and beginning farmers. It was also suggested that the government should consider increasing the $500,000 CALA loan limit, as it was argued that it is not enough for the outright purchase of a farming enterprise. It was also suggested to examine ways to set a reasonable price for a farm and to encourage the creation of farm machinery co-operatives, such as "Coopérative d'utilisation de matériel agricole (CUMA)[4]" in Quebec.

During the sessions in Quebec, the Government of Quebec's "Establishment Grant[5]" (the Grant) was discussed. Some in attendance argued that the Grant is insufficient for someone starting out with nothing. Concern was also expressed about the lack of flexibility in the Grant. For example, it was noted that, under the terms of the Grant, a young person cannot work full-time at another occupation while being in the process of establishing a farm. It was also argued that the Grant itself should not be taxable.

Another financing option mentioned in the Quebec roundtable discussion, was a fund established by La Coop fédérée and Caisses Desjardins to help beginning farmers. The fund is aimed at producers, between 18 and 40 years of age, who are members of the Fédération de la relève agricole du Québec (FRAQ) and members of a co-op affiliated with La Coop fédérée. Successful applicants can benefit from (among others): an Establishment Grant, partial reimbursement of their loan (capital only), mentoring services and various training services to help producers get established.

2) Debt

While it was acknowledged that, at the moment, credit may be more accessible and that interest rates are low, participants throughout the country expressed concern about incurring debt in order to farm because of the risks associated with the sector, the possibility of rising interest rates and debt servicing issues. The debt issue was less pressing for young producers already engaged in the business. Those in attendance felt that debt experienced by farmers could be addressed by: lowering interest rates for loans, giving young farmers a break on the repayment schedule for their loans and providing follow-up services when a producer borrows a large sum of money.

Students, in particular, were worried about taking on more debt in order to pursue a career in farming. As experienced in many areas of higher learning, agriculture students graduate with a high debt load as they pursue their career ambitions. Students in Truro, for example, noted that they are leaving school $30,000 to $40,000 in debt before they begin farming. They expressed concern about being able to manage more debt. A number of students stated that they would like to get a job for a couple of years to gain experience, pay down their student debt and build up savings before undertaking a farming operation. One student suggested that the government could waive student debt, or provide lower interest rates for students taking on agricultural-related debt.

[3] Patient capital is a long-term debt or financial instrument with terms and conditions that permit, for example, beginning farmers to make minimal or no payments on their loan (or its interest) during start-up years.

[4] Comprising at least five farms, the main objective of forming a CUMA is to provide its producer members with an organization from which they can obtain services, primarily the renting of agricultural machinery, inputs, tools and equipment at the lowest possible cost.

[5] The aim of the grant is to facilitate the establishment of young farmers and provide financial aid to encourage adequate training. The amount of the grant awarded to a new business may vary from $20,000 to $40,000, depending on the recipient's level of training. A similar grant is available for new business owners.

On a number of occasions, participants expressed support for Farm Credit Canada (FCC). FCC is widely perceived as responsive to producer needs - providing financial services as well as business and management training programs that are tied into their loan programs. However, a few participants suggested that the federal government is contributing to producer debt load problems through its programs, including FCC's lending practices. This was also raised by a private lender in a written submission.

3) Land

During the sessions, the lack of availability and the high cost of land (and the debt required to finance the purchase of land) were identified as key obstacles in getting started in agriculture.

Several young farmers in Truro stated that under provincial/municipal tax rules, owners of farmland do not pay property taxes; however, they are not required to actually farm the land. It was suggested that these tax laws encourage large farms to buy 'prime' farmland and let it sit idle – unfarmed, unrented and untaxed. Participants argued that this affects the ability of new entrants to purchase land.

Another criticism of government policy was expressed in an e-mail submitted to the Minister. The writer argues that British Columbia's land policy, which treats agricultural land the same as any other land, is resulting in escalating land prices that make it prohibitively expensive for most would-be farmers to begin a career in farming. The writer goes on to suggest that both the provincial and federal governments need to formulate policies that would (in key regions) remove agricultural land from speculative buying and selling, and promote new models of joint land tenure.

Two other major themes that were discussed with respect to land were urban development and the increasing presence of hobby farms on 'prime' agricultural land. In particular, participants felt that these two trends were placing pressures on land availability in some areas of the country – notably Southern Ontario and in parts of British Columbia.

Some young producers attending the sessions entered the sector successfully by renting with an option to buy land through a 'land bank company' (e.g., groups of investors who buy farmland and lease it to farmers), rather than purchasing the land outright. There was a perception among some participants that land bank companies are contributing to the increase in land prices. Some believe that rented land is unprofitable and only available in 'fragmented' sections, while others refuted this perception. Many participants saw promise in programs that could help match current landowners with those interested in farming.

Finally, some Saskatchewan participants pointed out that Aboriginals own a substantial amount of land through treaty and treaty land entitlement processes. This land base can provide significant economic opportunities for the large Aboriginal youth population. Amendments to legislation and regulations, which would serve to recognize individual Aboriginal property rights, may facilitate Aboriginal farming.

4) Labour

Many in attendance spoke of the challenges they face in attracting and/or having access to a skilled agricultural labour force. For instance, attendees shared their concerns about having to compete with other industries for skilled labour, their ability to afford to pay competitive wages and their ability to attract people to agriculture due to its current 'negative' image.

According to participants, the Temporary Foreign Worker Program has proven to be an important source of experienced labour. Aboriginal youth are also an emerging source of labour. It was suggested that the industry's labour issues could be additionally addressed by encouraging the creation of Farm Labour Co-operatives (Coopérative d'utilisation de la main-d'œuvre (CUMO))[6] ; improving agriculture's public image and

[6] The CUMO is a co-operative association whose exclusive purpose is to make available to member farms one or more employees. Through the sharing of manpower, the CUMO gives greater flexibility to member farms, while balancing the demands of stability in agricultural employment.

introducing high school students across Canada to agriculture as a career option.

5) Learning and Skills Development

On a number of occasions, attendees stated that new and existing farmers need greater access to practical training. This includes apprenticeships, internships, mentorship programs and training in financial and business planning. Training in human resource management was also identified as a key tool, as farmers need to be able to retain their employees once they are hired.

Some educational needs, which were region-specific, were also discussed. For example, a number of Quebec participants noted that it was difficult for young people to attend post-secondary schools because their parents needed them on the farm in September and October. Qualified replacement workers are difficult to find during this period. To address these issues, participants suggested the creation of a program that would provide farm families with financial assistance to hire help, while a son or daughter is obtaining post-secondary agricultural education outside the community.

Additionally, students in Abbotsford conveyed that there are difficulties in getting into veterinary schools (there are a limited number of veterinary colleges in Canada, and the University of Saskatchewan, for example, only opens 12 places to British Columbian residents each year) and that there is no enology program in British Columbia. Participants, therefore, suggested opening veterinary and enology schools in this province.

Professors identified farm family attitudes as key determinants of their children's educational choices. Many parents want off-farm opportunities for their children in careers such as agricultural financial services, research, or jobs in the food value chain. In Guelph, for example, farm families are still sending their children to the Ontario Agricultural College in a steady stream, but to pursue non-traditional programs.

While the government's support for training was acknowledged, it was seen as 'ad-hoc' and, therefore, insufficient to fulfill ongoing training needs. Participants suggested that the government should fund, develop, support, promote and expand training programs in the areas of financial management, marketing and managing small-scale farming operations, and provide more programs to teach practical skills, such as internships, mentorships, and apprenticeships.

Current initiatives such as the Canadian Farm Business Management Council (CFBMC)'s "Step up[7]" Program, the Collaborative Regional Alliance for Farmer Training (CRAFT)[8] and "Réseaux Agri-Conseils[9]" were cited as positive directions to pursue.

6) Information on Programs

Many of the federal and provincial programs aimed at young farmers and farm transfers, were unknown to participants and, consequently, may be underutilized. Students and producers revealed that they had difficulties in discovering the government programs available to assist them.

Improving access to such information for young and aspiring producers should be a priority. Information should be available in primary and secondary schools and to those outside of commercial farming. A "one-stop shop" for available government programs would allow them to spend less time searching for programs that meet their needs.

[7] CFBMC's "Step up" Program is an on-farm paid work placement that matches experienced farm managers with young people just starting their careers in agriculture.

[8] CRAFT Ontario is an informal, member-driven network of farmers that offer internships on their organic and ecological farms.

[9] Réseaux Agri-Conseils' primary mandate is to facilitate access to consulting services in the areas of farm management, financial management, farm transfer, etc. It serves all agricultural enterprises in all regions of Quebec.

Setting up training on the available aid programs dedicated to agricultural renewal should also be included in future program implementation plans. An attendee in Quebec proposed having an AAFC representative speak at, for example, a Caisse Desjardins regional meeting, to publicize the CALA program to those who interact with clients in the agriculture industry.

7) Different Challenges for Family and Non-Family Related Farm Transfers

Broad challenges related to farm transfers were highlighted in discussions. This included the pros and cons of passing on the farm to the next generation, a lack of support for and information on farm transfers across all regions, and the significant costs, (e.g., legal and accounting), that accompany succession planning. For example, in Truro it was stated that the total transactional costs involved in transferring a farm make the investment unprofitable if the returns on the farm business are too low to attract investors, such as venture capitalists.

Further, participants identified other challenges that were particular to family and non-family related successions/transfers.

a) Family-Related Succession or Farm Transfer

With respect to family-related successions, it was noted that the problem may not be with financing programs, but in having a pension fund for parents. Those in attendance recognized that parents need the equity in their businesses for their retirement as many farmers have reinvested in farm operations rather than saving their money for retirement. Further, some students felt that they needed to have a large farm to support two generations of farmers. Ultimately, participants want a way to facilitate intergenerational transfers that provides retiring farmers with enough money, without overburdening new farmers with unmanageable debt.

To that end, a participant recommended creating a savings program dedicated to farm transfers, which would allow producers to accumulate savings while they are actively farming. In this scheme, the government could provide a financial contribution that would be accessed by the retiree only when he or she is transferring their farm. However, should the producer decide to dismantle their enterprise, they would only have access to their financial contribution. Additionally, participants recommended creating a pension fund for parents and offering grants to offset the legal and accounting costs associated with intergenerational transfers.

b) Non-Family Related Succession or Farm Transfer

A number of participants indicated that new farmers are not necessarily from farm families and thus may be at a disadvantage in comparison to entrants from farm families. Participants provided the example of a family farm transfer whereby the farm may be sold at only a portion of the value (e.g., 40%) to a relative, but in non-family transfer situations, the purchaser must buy the business at full price. Tax measures were also identified as not being as favourable when the transfer does not involve a relative.

Some attendees felt that creating a system which would match up retirees with new entrants who want to enter the farming sector could help in facilitating non-family transfers. To aid in both family and non-family related farm transfers, the government could facilitate some training for retirees during the transfer of their agricultural enterprises.

8) Transferring the Business or Selling Assets

In addition to farm transfers, producers have the option of dismantling their businesses when they are ready to retire.

A number of attendees felt that farms are more valuable to the farmer when the quota, equipment and land are sold in pieces, rather than selling the whole working farm. From a tax perspective, there is no incentive to keep the family farm as a whole enterprise. These attendees recommended that the tax system distinguish between transferring a whole farm enterprise and selling farm assets separately. Some suggested that tax credits could be used as incentives to encourage exiting farmers to keep the farm together.

Tax provisions, such as the capital gains provisions governing farm transfers, were viewed by some participants as insufficient and out-of-date. For example, the $750,000 capital gains exemption was not seen as 'significant' in comparison to the increasing size and value of farms. A dairy producer also expressed concern about an 'anti-avoidance' provision in the *Income Tax Act*. According to the producer, the transfer of a farm, through the sale of shares of a family-owned corporation could trigger anti-avoidance rules in the *Income Tax Act* because the farm transfer is not considered to be arms-length and the earnings from the sale could be deemed as dividends rather than capital gains. Changing the 'anti-avoidance' rules would, he argued, permit parents to sell their farms to their children at a lower price and improve affordability. Other attendees suggested that the definition of "family" needs to be revised to include extended family members such as nieces and nephews. Also, they argued that non-family related transfers or donations of farm property should be exempt from taxes.

9) Quality of Life

As in any other profession, quality of life issues play a role in attracting and keeping young farmers in the sector.

Some participants felt that the farming sector is still dealing with expectations that people entering the farm business should be willing to accept less profit in exchange for the opportunity to become farmers. However, farm life seems less desirable to many potential new entrants due to their expectations concerning financial compensation and leisure time.

Rural quality of life issues were also discussed. Participants want to live in vibrant rural communities with sustainable economies. As farms increase in size, there are fewer neighbours and thus fewer services, such as daycare, offered nearby.

Support is needed for the development of transportation infrastructure, such as roads and waterways. There is a need to provide services so that the benefits of urban living, such as high speed internet, are brought to rural areas. Stronger links between agriculture and tourism could foster rural growth. Grants could assist with the establishment of restaurants, arts promotion, etc. Some participants recommended that the government continue to promote co-operatives.

TOWARDS AN AGRICULTURAL POLICY BETTER ADAPTED TO THE NEEDS OF YOUNG FARMERS

There are a number of ways to run a successful and profitable farming operation. Aspiring producers have the ability to choose the farming model that best suits their needs, whether it is in the form of a large or small-scale farming operation, in an urban or rural setting or through a co-operative.

1) How Young Farmers Want to Farm

A greater diversity of farming models is emerging within the sector as producers explore different approaches to viable farm operations.

A number of participants consider large-scale, industrial production to be an ongoing trend. However, some participants questioned the sustainability of the large-scale model and expressed concern that economies of scale and greater efficiency of production are achieved at the cost of greater environmental impact.

A number of attendees were interested in exploring different, non-traditional farming models. Some new farmers have departed from the traditional, capital intensive model of buying land and equipment in order to start a farm business, and have successfully entered the sector by renting both the land and farm equipment they require.

Various attendees felt that there are opportunities for small-scale farming to be profitable, by developing niche markets, and by emphasizing local food, organic/biodynamic production, and environmental sustainability. Many professors, students and young farmers believe that producers need to focus more on marketing, and differentiating their products in the marketplace through information about how they are produced (e.g., carbon footprint).

Urban agriculture was another new model which was discussed. A young, beginning farmer in British Columbia, for example, sent an e-mail to the Minister informing him of the concept of Small Plot Intensive (SPIN) farming, which entails densely planting crops in available urban spaces, such as backyards, abandoned lots, and rooftops.

A number of participants noted that producers need to consider co-operatives, joint-ventures and other beneficial business structures and operating agreements. For example, four producers working together may well be more economically efficient than four independent operators. In Quebec, various co-operative models were discussed, which included small niche farming and marketing of local and organic produce.

In Saskatchewan, participants discussed the plans of the One Earth Farms Corporation to lease land at market value from First

Nations, to focus on sustainable, environmentally responsible land use, to hire and train Aboriginal farm workers, and to provide First Nations with an equity stake in the company.

Some participants also suggested that Canada should examine the European model of local area brands which support small-scale and high-value production.

2) Agricultural Policy is not Inclusive of all Farming Models

On several occasions, it was stated that Canadian agricultural policy favours one model of agriculture disproportionately to other models. A number of participants felt that the majority of government support was geared towards large industrial farms and stated that there is a lack of programming for new models of production. Some participants stressed that government policy should support all types of production models.

3) Where Government Intervention Could Be More Effective

Throughout the sessions, the Minister heard where current government programs and policies were working well and received suggestions on ways to improve their effectiveness in the sector.

Some participants expressed concern about the way in which current programs are being delivered. A number of participants want governments to rationalize policies that they feel contradict each other (e.g., promoting both the red meat and ethanol industries). They would also like governments to break down the silos between different departments and among governments. Some found financial support programs to be too complex and not applicable to all parts of the sector. They also see a need for greater transparency for program payments.

There were numerous and varied opinions as to which direction agriculture policy should go in the future. Some participants wanted government to expand supply management to the beef, lamb and pork sectors; while others wanted the government to abolish quotas and price controls. Some attendees felt that government policies should support and help to improve or establish farm value-added foods, especially those that can enhance farm sales through the winter months. A number of attendees also suggested that governments should provide financial support to help establish year-round farmers' markets. Others would like to see an agricultural policy that better fosters export-oriented producers.

Certain attendees wanted government policies and programs directed at the promotion of energy self-sufficiency and support of alternative fuel sources. It was also mentioned that governments should invest in innovation and research. An Australian research program, through which producers direct research and own intellectual property rights, was suggested as a way to proceed in Canada.

In addition, a few participants proposed creating a national agriculture and food policy with predictable targets and benchmarks. This policy would include food security goals and the resources to achieve them, as well as support for both domestic and export production. Generally, participants would like to see policy leaders publicly declare their support for agriculture. They would also like the government to direct more funds towards increasing the profile of agriculture across Canada.

A number in attendance would also like a national policy on young and beginning farmers in Canada. The Fédération de la relève agricole du Québec (FRAQ) suggested a study on young farmers in Canada similar to the study "Diagnostic sur l'établissement des jeunes en agriculture" completed by the Ministry for Agriculture, Fisheries and Food (Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec (MAPAQ)) in 2006 and updated in 2008. They suggested adding questions to the upcoming census to determine the intentions of older farmers contemplating retirement in the next 5 to 10 years. The census results could inform a national young farmers' policy. Participants also want Canadian policymakers to examine foreign programs, such as the New Zealand 'sharemilking[10]' program which allows young farmers to get their start.

[10] Sharemilking is a type of farming arrangement whereby one party 'the farm owner' provides the infrastructure required for dairy production, while the other party 'the sharemilker' provides the physical labour, management skill and various types of machinery and livestock.

CONCLUSION

Over the course of his tour, Minister Blackburn had an opportunity to meet with industry stakeholders to hear their views on the challenges and opportunities facing young farmers and farm transfers, as well as ways that governments can facilitate farmers' transition into and out of the sector. A number of the issues discussed, such as profitability, debt and labour availability, are common challenges for the sector as a whole.

While the challenges for new farmers are significant, Canadian agriculture offers many opportunities for success to those entering the sector. The Minister believes strongly that the Canadian public needs to be presented with a more balanced picture of the Canadian agricultural sector. This starts with producers themselves focusing on their own strengths and opportunities, taking pride in the successes of the Canadian agricultural sector and communicating these accomplishments to all Canadians.

Minister Blackburn met with successful young producers across the country. As a group, new farmers are better educated today than ever before, and understand the importance of innovation, knowledge and skills development to their business success. They are open to explore new ways of doing business, and continue to enter the sector with energy, enthusiasm and an entrepreneurial spirit. This, too, is the reality of Canadian agriculture, and represents the future of the industry.

Landowner Consulting Services

Are you a landowner that is considering an agricultural use for your land?

Regeneration CSA now offers a full range of consulting services to private landowners who would like to explore a farming option for their land.

A lot of private landowners these days are opening up their land to farming operations, and there can be many benefits for the landowner by doing this, but there is also much to consider:

What types of farming operations are appropriate for my land?

What might the benefits be of particular farming applications? What are the impacts ?

There are many factors to consider, especially if as a landowner, you are committed to being a careful steward of the land and soil you own and wish to protect its value for future generations.

Not all types of farming operations are appropriate for all soil types and conditions. We offer soil testing analysis, complete site analysis, and much more to provide landowners with a solid understanding of their particular property's potential for sustainable agriculture.

Some local landowners are currently having their land used by local farmers for growing hay, corn, or other crops and may not realize that these operations may be having detrimental impacts to their soil, and local ecology. We can also help you consider the environmental factors and sustainability issues related to a particular land use.

We can also help landowners think through various issues such as leasing arrangements, what the practical needs of farmers might be on your land, and how to connect with a farmer who might be appropriate for a particular piece of land.

Our rates are very affordable.
Call us for appointment.

845 687 0535
Kevin Skvorak
Regeneration CSA
845 687 0535
http://www.regenerationcsa.org/

Hudson Valley Community and
Agricultural Land Trust
www.HVCALT.org

text from:
http://www.regenerationcsa.org/consulting-services-for-landowners.html

THE carrot PROJECT

Creating small farm financing solutions

FARMER LOAN PROGRAMS, 8.2010

MASSACHUSETTS: **MassDevelopment/Strolling of the Heifers Small Farm Loan Program**

- Provides loans from $3,000 to $15,000 for projects that improve small farmers' operations and increase their incomes, as well as meet emergency needs
- Farms with 250 acres, or less, in active production
- Annual gross revenue of $250,000 or less
- Fixed interest rate for up to 5-years
- **Deadlines Nov. 5, 2010**, and Jan. 28, 2011, Mar. 4, 2011, and Nov. 4, 2011
- Loans closed by MassDevelopment
- Contact: www.thecarrotproject.org, Dorothy Suput, 617-666-9637 or dsuput@thecarrotproject.org

VERMONT: Strolling of the Heifers Microloan Fund for New England Farmers

- Provides loans up to $15,000 for projects that improve small farmers' operations and increase their incomes, as well as meet emergency needs
- Farms with 250 acres, or less, in active production
- Annual gross revenue of $250,000 or less
- Fixed interest rate for up to 5-years
- **Deadlines Nov. 5, 2010**, and Jan. 28, 2011, Mar. 4, 2011, and Nov. 4, 2011
- Loans closed by Chittenden Bank
- Contact: www.thecarrotproject.org, Dorothy Suput, 617-666-9637 or dsuput@thecarrotproject.org

MAINE: Maine Farm Business Loan Fund

- Provides loans up to $35,000 for farm and farm-related businesses
- For small and midsized farms that use sustainable practices and serve local and regional markets
- Fixed interest rate for up to 5-years
- Rolling application
- Partnership with Coastal Enterprises, Inc.
- Contact: www.ceimaine.org, Gray Harris, 207-882-7552, or ghs@ceimaine.org

BUSINESS AND FINANCIAL MANAGEMENT RESOURCES

- On-line resources for farmers to commercial, government, and non-profit business and financial management technical assistance
- www.thecarrotproject.org/farmer_resources

www.thecarrotproject.org info@thecarrotproject.org 617-666-9637

LAW *for* FOOD: A SUSTAINABILITY PROJECT
kenneth@lawforfood.com | (802) 299-7532
71 Alexander Place South Royalton, VT 05068

September 3, 2010

Greetings from Law for Food!

We are two young lawyers serving farmers and food entrepreneurs in New England. Towards fulfilling our vision of sustaining this vital part of New England's culture and local economy, we provide effective and affordable legal representation and business counsel to small farmers, food producers and participants in the region's local food system.

We want to see the return of family farming as a viable economic activity. We want small-scale food producers to revive traditional recipes and find new ways to put their foods in the hands of consumers. We want farmer's markets to spring up in neighborhoods underserved by supermarkets. We want local producers selling seasonal produce directly to citizens. We want producers and consumers alike to opt out of a food system that promotes agricultural monoculture, underpays farmers and laborers, and under-nourishes consumers. To that end, we want opting out of the mainstream food system to be economically viable for both producers and consumers. Thankfully, we are not alone in bringing about what we see as nothing short of a revolution.

Americans are becoming more and more concerned with their food: where it comes from, whether it is safe, whether it is made using traditional methods. Consumers are looking for opportunities to purchase foods directly from producers, to get involved with CSAs, and to rediscover the pleasures of traditional cooking and traditional food preparations. Chefs and retailers are developing cuisines that showcase local specialties. Spurred by this groundswell of demand, farming and traditional food production are experiencing their own renaissance as young people return to farms for the first time in generations.

These new farms, new food companies, and new markets are ill-suited to the current legal and regulatory regime. Small-scale agriculture often conflicts with land use and zoning plans. Food producers have to navigate a complex set of Federal and state regulations relating to food safety. Small farms and food producers in New England are underserved by existing legal services organizations. This is where Law for Food comes in.

LFF's legal services help our clients structure their businesses to protect their assets. We counsel on employment law, risk management, and food safety. We represent farmers and food producers in contract negotiations and in court when necessary. We help farmers plan for the future. We use our perspective as lawyers to provide business counsel, so our clients can make informed strategic decisions, acquire capital and credit, and develop new markets. Sensitive to the fact that our clients often cannot afford to pay lawyers at market rates, we work with our clients to establish reduced-fee arrangements, installment plans and subscriptions for legal services.

We also educate our constituents about how the law affects them. LFF puts on workshops and publishes articles on legal topics of interest to farmers, food producers, restaurants, and local food retailers. We provide valuable information to our constituents, at the same time developing new clients and deepening existing relationships. Planned workshops include:

CORPORATE FORMS AND BUSINESS ARRANGEMENTS

What is a corporation, an LLC, a partnership, an L3C? What is the difference between an S Corp. an LLC, and a C. Corp? How can you use these corporate forms and draft governing agreements to accomplish more with your business? How do you take advantage of a limited liability shield without jeopardizing your home and personal assets? Should you form a non-profit or a for-profit business? Learn the answers to all of these questions and more.

BUSINESS PLANNING AND STRATEGY

How do you write an effective business plan? Should you write a business plan every year? What makes a vision effective? How can you make your vision a reality? Learn how an effective plan can motivate your employees and strengthen your business.

TRADEMARKS AND UNFAIR COMPETITION

What is a trademark and do I need one? How do I register a trademark? I have the domain name: doesn't that mean I own the trademark? What do I need to know about unfair competition?

FINANCING THE FARM OR FOOD BUSINESS

What is a promissory note? What is a mortgage and how is it different from a deed of trust or land contract? What exactly is an acceleration clause? What other terms and conditions should I look out for? What are my rights as a borrower? What sort of financing arrangements are available? Who are the credit providers serving Vermont's farmers? Will you have to give up control of your business? How will you work with a silent partner? This class will discuss how to grow your business without changing or destroying it.

EMPLOYMENT AND LABOR LAW

Learn how to hire and manage employees, and how to handle on farm work-stays, internships, and volunteer labor. Find out when an intern in fact is an employee, as well as the fine line separating independent contractors from employees.

Food Safety Law Overview for Farms and Food Businesses

Learn how Federal, State, and Local Governments regulate food safety. What is the interstate commerce clause and how does it affect your business? Find out how to assess and manage your risk, and why you should start thinking about HACCP now.

Land Use and Zoning

Learn about current use, its tax advantages, the requirements you must satisfy to participate, and its status today. Do you qualify for an exemption? What is a right to farm law, really? How do you deal with zoning restrictions? What happens when the (zoning) law forbids you from building the very facilities that the (food safety) law requires you to build?

Property: Leases, Ownership, and Land Trusts

How do you acquire, hold onto, and use land for your farm or food business? Leasing or buying: what's right for you? What are the advantages of a long-term lease agreement? What are the costs and benefits of a land trust? How do you find available land?

Estate Planning and Farm Transfer

What makes an estate plan? What is its purpose? What are the advantages of a trust versus a will, and vice versa? What is the difference between a right of first refusal and an option to purchase at agricultural value, and which applies to a particular situation?

August 2010

Farm Business Development Programs in Vermont

Business planning and technical skills development for Vermont's farmers

Below is an outline of programs and services available throughout Vermont to assist farmers in developing technical and business planning skills. In the following pages are short descriptions of programs and services offered, and where to find more information. Please share this list where appropriate and keep it on hand for making referrals to farmers!

Business Planning Resources

A. GETTING STARTED
Growing Places – UVM Extension WAgN workshop
Starting your own business – VT Small Business Development Center
Micro Business Development

B. CREATING A PLAN (YOUNG AND MATURING BUSINESSES)
Tilling the Soil – UVM Extension and SBDC
Vermont Farm Viability Enhancement Program
Business counseling with VT Small Business Development Center

C. MATURE BUSINESSES
Taking Stock
Business counseling with VT Small Business Development Center
Vermont Farm Viability Enhancement Program
Peer-to-Peer Collaborative Program at VT Sustainable Jobs Fund

D. TEMPLATES AND WORKSHEETS
VT Farm Viability's Farm Financials Workbooks
Business Plan Templates from University of Maine
Annual Dairy Cash Flow Worksheet from UVM FINPACK
Monthly dairy/crop cash flow worksheet
Cash Flow Analysis of Transitioning to Organic Dairying
NOFA-VT Energy Loan Fund

Technical Skills Development

A. ON-FARM EXPERIENCE
NOFA-VT Apprentice & Willing Worker On-line Directory
Intervale Farms Program
Vermont Technical College Farm Incubator
University of Vermont Cooperative for Real Education in Agricultural Management (CREAM)
Vermont Technical College Dairy Management Program
University of Vermont student internships
Green Mountain College Farm & Food Program
World Wide Opportunities on Organic Farms

B. SUPPORTING TECHNICAL INFORMATION
New Farmer Network Resource Guide
National Sustainable Agriculture Information Service (ATTRA)
UVM Extension websites
Sustainable Agriculture Research and Education (SARE)
Publications

C. TRAINING AND WORKSHOPS
From the Ground Up
Vermont Grass Farmers Annual Conference
NE Pasture Consortium Annual Meeting
NOFA Direct Marketing Conference
NOFA- Winter Conference
NOFA-VT's Summer On-Farm Workshop Series

D. ACADEMIC PROGRAMS
Vermont Technical College
University of Vermont
FARMS (UVM/VTC Dairy Farm Management 2 + 2 Program)
Green Mountain College

Farm Business Development Programs in Vermont

I. Business Planning

A. GETTING STARTED

Growing Places – UVM Extension WAgN workshop developed to assist individuals in exploring the idea of starting a farm or other agriculture-related enterprise. Since 1995, there have been 12 cycles and 158 graduates. Held in the Fall and Spring in different locations throughout Vermont. A 6-part seminar, participants learn about goal setting, resource evaluation, and marketing.

Starting your own business – VT Small Business Development Center workshops designed for individuals who are thinking about going into business and need assistance with the procedures involved and government regulations regarding starting a business in Vermont. Topics discussed include the feasibility of starting a business, legal requirements, financing issues, management and risk assessments and general business planning. This workshop is the first step in the VtSBDC in-take process. It is appropriate for those individuals who are not yet in business and are interested in general information and writing a business plan. Participants receive access to five online courses.

Micro Business Development – Workshops of the Vermont Community Action Agencies, Vermont MBDP provides education and counseling to Vermonters striving to start or expand micro-businesses. Since 1989, have helped over 4000 people with their plans to start or expand a micro business. Classes include *Your Road Map to Success* (A step-by-step map to write your business plan. Goal setting and action planning), *The Language of Business* (communication skills), *Tools For Life* (How to win friends and influence people. Examine habits of successful people), *E-Commerce, Keeping the Books, To Market, To Market, Time & Money. What We Never Have Enough Of..., Where is the Cash?* (Cash flow projections etc), *Pricing for Profit, The Tax Man Cometh - Tax Planning*.

B. CREATING A PLAN (YOUNG AND MATURING BUSINESSES)

Tilling the Soil – UVM Extension and SBDC business planning class for agricultural entrepreneurs, Tilling the Soil gives both new and experienced farmers the tools to move forward with an innovative business idea. Part of the NxLevel curriculum series, Tilling consists of 12 3-hour sessions. During the class, participants examine the critical components to developing a comprehensive business plan. Participants will learn how to organize and better manage their businesses; identify opportunities to market products and or services; understand and organize business financials; learn how and where to get funding; network with other farmers and members of Vermont's agricultural community; and write a detailed, comprehensive business plan ready for a lender's review. Instructors for the course include UVM Extension and Vermont Small Business Development Center (SBDC) business management specialists. The course also includes farmers, lenders and industry professionals who will share their experience and insights with participants.

Vermont Farm Viability Enhancement Program – The Vermont Housing and Conservation Board provides farmers with business planning and technical assistance. Developed in collaboration with the Vermont Agency of Agriculture, Food and Markets, the Vermont Farm Viability Program is designed to strengthen the economic position of Vermont agriculture and collaborates with UVM

Extension, the Northeast Organic Farmers Association of Vermont, VT Small Business Development Center and Working Landscapes to deliver services to farmers. Farmers are eligible if they have three years experience, are full time Vermont residents, and had at least $10,000 in gross farm income in the previous year.

During the year-long process that culminates with the completion of a written business plan, the Program offers in-depth financial analysis, assistance in goal setting and an analysis of the strengths, weaknesses and opportunities of the farm business, and guidance and assistance in the development of a plan for meeting these goals. Additional analysis and assistance is provided as needed by each individual farm, such as farm transfer planning, cash flow or enterprise analysis, and technical assistance. The Program offers enrolled farmers the opportunity to apply for grants to help implement the plan once it is complete.
http://www.vhcb.org/viability.html

Business counseling – Vermont Small Business Development Center - strengthens existing business entities and assist start-ups with high-quality, no-cost counseling and one-on-one advice for business owners related to business plan development, feasibility assessment, marketing, finance etc.

C. MATURE BUSINESSES

Taking Stock- UVM Extension WAgN- sponsored course offered starting in 2007 (not offered 2008) to help experienced farm business owners take a critical look at their businesses, re-assess what is working and discover where some fine-tuning might be needed. Topics include financial analysis, legal issues, labor management, business transition planning. Contact Beth.Holtzman@uvm.edu.

Business counseling- see above

Vermont Farm Viability Enhancement Program – see above

Peer-to-Peer Collaborative Program - Vermont Sustainable Jobs Fund's program provides strategic direction assistance to businesses over $1M gross income using a team of 3 Peer Advisors (experienced CEOs, CFOs and COOs). The Collaborative has worked with sustainable agriculture related businesses, including VT Smoke & Cure, VT Compost Company and Sunrise Orchards. All these businesses were at critical junctures and had significant business opportunities confronting them. To learn more **http://www.vsjf.org/peer_collaborative/purpose.shtml.** Contact Janice St. Onge at janice@vsjf.org.

D. TEMPLATES AND WORKSHEETS

Farm Financials Workbooks- Vermont Housing and Conservation Board These workbooks incorporate a financial templates and spreadsheets in one Excel workbook, linked together so that many pieces of information automatically fill in. They have been created primarily for the use of farm business planning educators and consultants and the farmers of the Vermont Farm Viability Enhancement Program, but are free and accessible to all farmers and the general public on-line at www.vhcb.org/viability.html. Two versions available, one for dairy/livestock operations and one for vegetable or diversified operations.

Business Plan Templates- http://www.umaine.edu/animalsci/Farmmanage/busplan.htm. A template developed by John Porter, New Hampshire Cooperative Extension.

Annual Dairy Cash Flow Worksheet - UVM Extension's ready-to-use IRS-compatible ledger for recording financial information for dairy and other livestock farms. 52 pages, $8.00 [S&H: $3.00]. Purchase from local UVM Extension offices. **http://www.uvm.edu/~uvmext/programs/agriculture/agbusiness/default.php**

FINPACK - UVM Extension program uses this program to aid Vermont farmers in farm analysis and planning. Available on-line http://www.uvm.edu/~uvmext/programs/agriculture/agbusiness/default.php

Monthly dairy/crop cash flow worksheet- UVM Extension uses this program to aid Vermont farmers in farm analysis and planning http://www.uvm.edu/~uvmext/programs/agriculture/agbusiness/downloads/monthlycashflow.pdf

Cash Flow Analysis of Transitioning to Organic Dairying - NOFA-VT is collaborating with the Small Business Development Center to help farmers do a cash flow analysis to look at income and expenses during and after the transition and make an informed decision about how to make the transition.

Energy Loan Fund - NOFA-VT provides this program to assist member farmers to improve their energy use technologies, and to develop energy management plans for their farms. This includes an energy audit. A unique energy-use profile will be established from this audit that identifies specific conservation potential, efficiency requirements, and renewable energy capabilities. An energy management plan, incorporating the most practical of these strategies, will be created from this profile.

Farm Business Development Programs in Vermont

II. Technical Skills Development – How To

A. ON-FARM EXPERIENCE

NOFA-VT Apprentice & Willing Worker On-line Directory - The NOFA-VT on-line directory provides profiles of over 60 farms looking for apprentices and willing workers.

Intervale Farms Program - The Farms Program leases land, equipment, greenhouses, irrigation and storage facilities to small independent farms that agree to farm organically. Currently thirteen farms operate on 120 acres with over 60 full time and seasonal workers. Farmers have access to a cafeteria of technical and mechanical support as well as the benefit of marketing programs and business planning resources to help them establish themselves as profitable businesses. http://www.intervale.org/programs/agricultural_development/intervale_farms.shtml

Vermont Technical College Farm Incubator - The program aims to help young farmers accumulate the necessary capital to start their own operation.

University of Vermont Cooperative for Real Education in Agricultural Management (CREAM) - CREAM emphasizes experiential learning to develop interpersonal, teamwork, and practical problem-solving skills. 15 Students run a herd of 30 Registered Holstein cattle for one school year.

Vermont Technical College Dairy Management Program (*for enrolled VTC students)*- 500-acre working farm and registered Holstein and Brown Swiss herd of 98 cows and a full complement of replacements. The modern dairy operation has a Germania - afimilk double-four herringbone milking parlor. The farm is continually looking at new ways to improve profitability and many are completed through student design and input. The farm also serves as a place for many students to be employed.

University of Vermont student internships (*for enrolled UVM students)*– By department. See for example, http://asci.uvm.edu/intern/?Page=internships.html&SM=internmenu.html

Green Mountain College Farm & Food Program (*for enrolled GMC students)*– The College's Farm & Food academic program involves integrating experiential learning about agriculture and food production into coursework. The program has a farm crew of student workers who keep the farm going on a daily basis. The Family Farm Forum is an annual series of events bringing together farmers, students, community members and food experts. http://www.greenmtn.edu/farm_food.aspx

World Wide Opportunities on Organic Farms - WWOOF organizations publish lists of organic farms, smallholdings and gardeners that welcome volunteer help at certain times. The diversity of hosts available offers a large variety of tasks and experiences. Volunteer helpers ("WWOOFers") choose the hosts that most interest them and make direct contact to arrange a stay. Volunteers usually live as part of the family.

B. SUPPORTING TECHNICAL INFORMATION

Farm Business Development Programs in Vermont

New Farmer Network Resource Guide http://www.vermontagriculture.com/agdev/newfarm.htm

National Sustainable Agriculture Information Service (ATTRA) - in-depth publications on production practices, alternative crop and livestock enterprises, innovative marketing, organic certification, and highlights of local, regional, USDA and other federal sustainable agriculture activities, as well as farming news, events and funding opportunities. http://attra.ncat.org/

UVM Extension websites (many other Extension websites also provide Vermont-relevant information, including:

Grazing Guide http://www.umaine.edu/grazingguide
Farm labor management - http://www.uvm.edu/~farmlabr/, http://www.uvm.edu/~uvmext/programs/agriculture/labor/default.php
Risk management - http://agrisk.blog.uvm.edu/
Biosecurity - http://www.uvm.edu/~ascibios/
Commercial horticulture -http://www.uvm.edu/~uvmext/programs/agriculture/commercial/default.php
Crops and soils - http://pss.uvm.edu/vtcrops/
Horses- http://www.extension.org/horses
Forestry - http://stumpage.uvm.edu/
Maple - http://www.uvm.edu/~uvmaple/
Meat processing - http://www.uvm.edu/livestock/meat/
IPM - http://pss.uvm.edu/ipm/
Sheep- http://www.uvm.edu/livestock/sheep/
Sustainable agriculture (esp. Grass farming and pasture management, land access, farm transfer and goat and sheep dairy)- http://www.uvm.edu/~susagctr/
Women in agriculture - http://www.uvm.edu/~uvmext/programs/agriculture/women/default.php

UVM Web Sites: Animal Science Department, College of Agriculture & Life Sciences Northeast Sustainable Research and Education, Plant and Soil Science Department

Sustainable Agriculture Research and Education (SARE) http://www.sare.org/, http://www.sare.org/coreinfo/farmers.htm

Publications: Agriview, Country Folks, Small Farmer Quarterly, Solar Dollar, Cultivating Connections, Small Ruminant Dairy newsletters and calendars etc.

C. TRAINING AND WORKSHOPS

From the Ground Up – Technical workshops for beginning farmers, sponsored by University of Vermont Extension Women's Agricultural Network and Center for Sustainable Agriculture.

Farm Business Development Programs in Vermont

UVM Extension and Center for Sustainable Agriculture - see topic areas above and websites

Vermont Grass Farmers Annual Conference – Technical workshops and networking http://www.uvm.edu/~pasture/?Page=vgfa.html

NE Pasture Consortium – Annual meeting, see http://www.umaine.edu/grazingguide/Main%20Pages/NEPREC%20description.htm

NOFA Direct Marketing Conference - provides a networking and educational opportunity for farmers' market managers and vendors and farmers marketing through Community Supported Agriculture and farm stands.

NOFA- Winter Conference - Organic enthusiasts, farmers, gardeners, and consumers have been gathering for celebration, education, and inspiration for the past 25 years at the annual Conference held in February.

NOFA-VT's Summer On-Farm Workshop Series - These workshops provide the tools for farmers, gardeners, cooks, homesteaders, localvores, and eaters to continue to grow Vermont's food future. All are invited to attend these workshops whether geared for the commercial dairy farmer or the backyard gardener.

D. ACADEMIC PROGRAMS

Vermont Technical College - Bachelor's and Associate's Degree Programs:

- Agribusiness Management Technology
- Dairy Farm Management Technology
- Landscape Development and Ornamental Horticulture
- Veterinary Technology

University of Vermont - Bachelor and graduate programs:

- Animal science: Equine Science (Morgan Horse Farm)
- Ecological agriculture
- Sustainable Landscape Horticulture

FARMS (UVM/VTC Dairy Farm Management 2 + 2 Program) - Provides Vermont residents with scholarships and the opportunity to earn a B. S. after a two-year Associate's Degree in Dairy Farm Management from the Vermont Technical College.

Green Mountain College – Bachelor's and master's degrees: Environmental Studies major offers a concentration in Sustainable Agriculture and Food Production. Dozens of classes utilize the Cerridwen Farm and other local farms as part of their coursework   See also GMC Farm & Food Program above. http://www.greenmtn.edu/farm_food/academics/es.aspx

Westchester Land Trust Farmers Match Program

Westchester Land Trust's Farmers Network is not just a name. We have real farmers growing real food. And not only growing it, but selling it too.

Inaugurated in December 2009, the Farmers Network has grown to more than 100 participants, including organizations such as the Glynwood Center, the Stone Barns Center for Food and Agriculture, and Westchester County, all of whom are part of the fast-growing local food movement. With Slow Food Westchester and Mypersonalfarmer.com, we held an innovative farmers-chefs "speed meeting" in spring 2010. And we will be holding a Chef to Farm Tour on October 18, 2010.

An important part of the Farmers Network is our Match Program -- we try to match landless farmers with people who own land that would lend itself to farming.

For the 2010 season we made six matches. Among them are Mimi Edelman and Eileen Zidi, of I & Me Farm. Mimi and Eileen work on land owned by William Louis-Dreyfus, on Wood Road, and by Bob and Beth Mancini, on Guard Hill Road, both in Bedford, NY. Both properties are protected by Westchester Land Trust conservation easements that allow agriculture. Another is Doug DeCandia, who is working at Ryder Farm, in Brewster, NY.

We are currently in the process of making matches for the fall 2010 through fall 2011 season.

To learn more or to participate in the Farmers Network or the Match Program, email Eileen Hochberg, Westchester Land Trust's director of conservation outreach, Eileen@westchesterlandtrust.org, or call her at 914 241 6346 x12.

Westchester Land Trust
403 Harris Road, Bedford Hills, NY 10507

Landowners Looking for Farmers

Contact: Eileen Hochberg, Director of Conservation Outreach, Westchester Land Trust, 914-241-6346 x12, eileen@westchesterlandtrust.org

ID	Location	Acres Available	Organic	Land Description	Farm Operation Desired	Infrastructure Provided	Lease Details (yrs)
8123	Bedford - Westchester County	10	Synthetic fertilizes applied within past 5 years	Unfenced field/meadow; slightly pitched and flat	Vegetables	None	Negotiable
16278	Lewisboro - Westchester County	1+		Currently lawn; flat, sunny; no synthetic chemicals past 5 years	Vegetable garden	Water from pond	Would enter long term lease
7917	North Salem - Westchester County	1 acre or little less	Organic practices	Unfenced pasture, field/meadow, southern exposure	Vegetables, bees, livestock	Toolshed, garage with electricity, small tractor, water, compost facility	1 season to start
15932	Somers - Westchester County	20-25, for 2011		Currently fallow; was used for cattle, horses, vegetables, old orchards; pasture; fields; flat; hilly; southern exposure	Equine (horse boarding) is preferable, but possibly vegetables, livestock	Limited fencing; water; tractor and other equipment; potential for housing	3 - 10 years
122672	Yorktown - Westchester County	1 acre paddock		Currently mowed pasture	Vegetables; livestock	Paddock	Negotiable
2499	Southeast - Putnam County	1 acre	Yes, organic practices	Flat cultivated field, full sunn	Vegetables, bees, chickens, livestock	Farmstand, chicken coop, possible housing	Negotiable
13422	Southeast - Putnam County	60+, for 2011	Yes; certified	Pasture; growing fields; flat; southern exposure	Crops; livestock; equine; hay	Fencing around pasture and growing fields; water; irrigation; all equipment; farmstand; heated greenhouse; hoophouses/tunnels; barn; other outbuilding; compost facility; 60 acre paddock; potential for housing	Negotiable
14973, 6304	New City - Rockland County	15	Fallow over 30 years	Unfenced pasture, field/meadow, flat, southern exposure	Vegetables, berries, bees	Livestock paddock, water source, electricity - negotiable	Negotiable
15800	Pine Plains - Dutchess County	100+	Organic practices	230 existing fruit trees, mostly fenced; unfenced pasture, field/meadow, 10+ acres of lawn for specialty crop, some southern exposure - mostly west, northwest	Fruit orchard, crops, specialty crops	Small 2 story greenhouse with timed watering; possibly barn, shed, stalls; fencing needs upkeep; 90 HP John Deere; water source; possible irrigation; existing electricity TBD; housing with wood fired forced air heat	Negotiable
4769	Coxsackie - Greene County	20+	Yes; organic practices	Tillable; all hay now	Fowl; vegetables	Very large barn; 4 bedroom house	Negotiable

Lower Hudson Land-Seekers Questionnaire
Fall 2010 through Fall 2011
Westchester Land Trust

Name:

Farm Name, if applicable:

Address: **County:**

Phone (home): **Phone (cell):** **Fax:**

Email: **Website:**

Products or services you plan to provide (check one or more & briefly describe):

☐ Crops (vegetables, grains, flowers, herbs, etc.): ____________________

☐ Livestock (poultry, cattle, sheep, bees, etc.): ____________________

☐ Prepared/preserved products (jams, baked goods, etc): ____________________

☐ Equine (boarding, breeding, lessons, etc.): ____________________

☐ Trees (Christmas, nursery stock, etc.): ____________________

☐ Nursery (annuals, perennials, trees, shrubs, etc.): ____________________

☐ Fruit (orchard, berries, etc.): ____________________

☐ Hay (for commercial sale or feeding your livestock): ____________________

☐ Aquaculture (fish production and/or hydroponics): ____________________

☐ Woodlot (managed for firewood sales): ____________________

☐ Not currently in production (fallow fields, etc.): ____________________

☐ Other: ____________________

How many acres are you looking for?

Do the acres need to be on one property?

Are you looking for land in:
☐ Northern Westchester
☐ Southern Westchester
☐ Putnam County
☐ No preference

Infrastructure (please check all that apply & state whether desired or needed):
☐ Greenhouse(s) ____________________
☐ Hoophouse(s) and/or Tunnel(s) ____________________
☐ Barn(s) ____________________
☐ Other Outbuildings (sheds, etc.) ____________________
☐ Farm Stand (structure) ____________________
☐ Fencing ____________________
☐ Livestock paddock(s) ____________________
☐ Riding ring (indoor or outdoor) ____________________
☐ Equipment (tractors, tillers, etc>) ____________________
☐ Water source ____________________
☐ Irrigation ____________________
☐ Electricity ____________________
☐ Compost facility ____________________
☐ Housing for farm worker or renter ____________________
☐ Other ____________________

Do you plan to use organic production methods? Please explain.

Do you require a minimum lease term? If so, how many years?

How many years experience farming do you have?

List any relevant degrees, certifications and training you have:

***

Please return this form to Eileen@westchesterlandtrust.org or to Eileen Hochberg, Westchester Land Trust, 403 Harris Road, Bedford Hills, NY 10507.

Thank you very much for taking the time to answer these questions. Your participation is much appreciated and will help WLT in our efforts to connect farmers with available land and preserve farmland in our region. Please let us know if you have any questions.

LAND STEWARDSHIP PROJECT

Land Stewardship Project Fact Sheet #12

Updated: June 2008

Farm Bill Support for Beginners

The Beginning Farmer and Rancher Development Program

Overdue support for beginning farmers

This spring, the Food, Conservation and Energy Act of 2008—commonly known as the 2008 Farm Bill—was passed into law. The new bill guides food and agriculture policy for the next five years. While this law covers a broad array of topics, this fact sheet highlights one positive development: support for beginning farmers and ranchers.

The 2008 Farm Bill takes a comprehensive approach to supporting new farmers and ranchers and dedicates substantial resources to beginning farmer and rancher initiatives. During the Farm Bill debate, the Land Stewardship Project, working with the Sustainable Agriculture Coalition as well as other farm and rural organizations from across the nation, pushed for beginning farmer and rancher initiatives. With the support of Congressional leaders, the bill now includes smart start-up support for beginning farmers through additional credit provisions, conservation incentives and beginning farmer and rancher assistance programs.

The investment in beginning farmer and rancher initiatives is an important step in strengthening our rural communities and building a more sustainable food and agriculture system. With the growth in organics, local markets and regional food systems, for example, there are clearly opportunities in agriculture. The Farm Bill's beginning farmer and rancher initiatives will help new farmers and ranchers take advantage of opportunities in agriculture and overcome barriers to getting started.

This fact sheet provides information to organizations and groups interested in the Beginning Farmer and Rancher Development Program (BFRDP), perhaps the most significant beginning farmer measure included in the 2008 Farm Bill.

Beginning Farmer & Rancher Development Program

BFRDP is a competitive grants program aimed at providing support to collaborative networks or partnerships which may include community-based organizations, non-governmental organizations, and extension and educational institutions that provide beginning farmer and rancher education, training and mentoring.

BFRDP received $75 million in mandatory funding through the new Farm Bill, which is a precedent-setting investment in our nation's beginning farmers and ranchers. Essentially the program provides federal resources to collaborative state, tribal, local or regionally-based networks or partnerships of public and private groups. Networks or partnerships may include: Community-based organizations, non-governmental organizations; cooperative extension; relevant USDA and state agencies; and community colleges.

BFRDP will make it possible for such groups to use a wide variety of strategies for assisting beginning farmers and ranchers. Activities outlined in the Farm Bill that the BFRDP will support include:

1) mentoring, apprenticeships and internships;
2) resources and referral;
3) assisting beginning farmers or ranchers in acquiring land;
4) innovative farm and ranch transfer strategies;
5) entrepreneurship and business training;
6) model land leasing contracts;
7) financial management training;
8) whole farm planning;
9) conservation assistance;
10) risk management education;
11) diversification and marketing strategies;
12) curriculum development;
13) understanding the impact of concentration and globalization;
14) basic livestock and crop farming practices;
15) the acquisition and management of agricultural credit;
16) environmental compliance;
17) information processing;
18) other similar subject areas of use to beginning farmers or ranchers.

Why the BFRDP makes sense

The BFRDP is a common-sense initiative with the flexibility to support a number of different approaches and strategies to help new farmers and ranchers get started. Community-based organizations and networks can use the BFRDP to address barriers beginning farmers and ranchers face which might be specific to their region. In the end, this program can help get more people farming or ranching in ways that build local and regional food systems and strengthen rural com-

Continued on reverse page…

munities and care for the land. Matching federal resources with community-based organizations and networks that are working day-to-day with new producers is a good approach that can produce results.

Who will administer BFRDP?

BFRDP will be administered by the USDA's National Institute of Food and Agriculture. The National Institute of Food and Agriculture is the new name for what used to be the Cooperative States Research, Education and Extension Service (CSREES) of USDA. Within the National Institute of Food and Agriculture, a National Program Leader will be appointed and charged with developing a Request for Applications, which contains guidelines for how the program will be administered and grants awarded.

It is likely that as part of those guidelines, a stakeholders' review panel will be established to evaluate proposals from interested organizations or networks applying for grants.

Other guidelines outlined in the Farm Bill for BFRDP include provisions such as:

- ✔ Community-based organizations or networks applying for grants must use funds to primarily target beginning farmers and ranchers who have been farming or ranching less than 10 years*.
- ✔ The term of a grant can be no greater than three years.
- ✔ The size of a grant can be no greater than $250,000 per year (eligible recipients may receive consecutive grants).
- ✔ To qualify for a grant, the community-based organization or network must provide a match in the form of cash or in-kind contribution equal to 25 percent of the funds provided.

The BFRDP also sets aside 25 percent of the yearly funds for organizations or networks serving socially disadvantaged farmers and ranchers. "Socially Disadvantaged" producers have traditionally been excluded from federal programs and include minority and women farmers and ranchers as well as immigrant and farm workers seeking to become farmers in their own right.

Who can participate in BFRDP?

BFRDP is a voluntary program and grants will be awarded to eligible proposals according to ranking criteria established in the Request for Applicants. The National Institute of Food and Agriculture will announce it is accepting proposals through the Federal Register and by other means such as press releases and on its website.

The new Farm Bill dedicated between $18 million and $19 million to BFRDP for each of the next four years. The number of organizations or networks receiving support will vary depending on the size, quality and number of proposals that come forward. Along with guidelines and recommendations from an appointed review committee, regional equity will be considered during awarding of grants.

When will BFRDP be available?

Predictions are the earliest the National Institute of Food and Agriculture would be able to begin accepting proposals is in the first half of 2009, although factors such as how much grassroots engagement and demand there is for the program, any restructuring of USDA, changing Presidential administrations, the development of the Request for Applications and legislative issues may delay or speed up program delivery.

For more information

If you have additional questions about BFRDP or other beginning farmer provisions in the 2008 Farm Bill, contact the Land Stewardship Project at 612-722-6377, visit www.landstewardshipproject.org or see the sources section below.

Sources

➔ House Agriculture Committee, Farm Bill website, Complete Legal Language of Conference Reports (Title I-Title XV) http://agriculture.house.gov/inside/FarmBill.html

➔ Senate Agriculture Committee http://agriculture.senate.gov/

➔ March 27, 2007: "Statement of Karen Stettler, Land Stewardship Project Farm Beginnings® Director, for the Credit Hearing of the Subcommittee on Conservation, Credit, Energy, and Research, U.S. House of Representatives Committee on Agriculture." This testimony outlines how Congress can help beginning farmers in the new Farm Bill. www.landstewardshipproject.org/pr/07/newsr_070327-2.htm

➔ Sustainable Agriculture Coalition (see the Legislative Tracking Chart at www.sustainableagriculturecoalition.org)

• • •

This fact sheet is brought to you by the members and staff of the Land Stewardship Project, a private, nonprofit organization devoted to fostering an ethic of stewardship for farmland and to seeing more successful farmers on the land raising crops and livestock. For more information, call 651-653-0618 or visit www.landstewardshipproject.org.

** Those farmers and ranchers who are not beginning farmers and ranchers are allowed to participate in BFRDP projects as long as it doesn't detract from the primary purpose of educating beginning farmers and ranchers.*

The FarmLASTS Project: FarmLand Access, Succession, Tenure & Stewardship

This project addresses one of the most pressing issues facing U.S. agriculture. The future of our agriculture depends on the ability of new generations to establish successful farms[1]. One of the biggest challenges to entry is gaining access to affordable, secure agricultural land and farms.

The purpose of this project was to discover and share new approaches, models and strategies that foster farm entry, succession and stewardship. This project examined and made recommendations about how farms are acquired, stewarded and passed on. An estimated 70 percent of U.S. farmland will change hands in the next twenty years—land owned by farmers, and land rented from farming and non-farming landlords. Farmland access and transfer are particularly important for small and medium-size farms that control over 80 percent of U.S agricultural land.

There are multiple challenges in farm entry, exit, tenure relationships and transfer. This project conducted research, education and outreach on:

1) Farmland access and tenure for beginning farmers;
2) Farm succession challenges for exiting farm operators; and
3) The impacts of tenure and succession arrangements on land use and the environment.

The Project Team:

- Investigated how farmland is acquired and held by farm entrants, and how new land tenure and transfer approaches can improve farm viability and land stewardship.
- Conducted research in farmland access and tenure, farm succession, and environmental impacts of tenure arrangements. We worked with university researchers, non-profit professionals, and beginning and exiting farmers.
- Developed, piloted and disseminated two educational modules on tenure issues and approaches.
- Conducted outreach activities at regional and national levels. We produced written materials including an online Extension manual and research report, conducted training events, organized and hosted a national conference, and placed articles in popular farm and rural media.
- Explored the public policy implications of these land access, tenure and stewardship issues and made policy recommendations.

For more information about the project, and for project materials, visit www.uvm.edu/farmlasts.

* * *

This project was supported by the National Research Initiative of the USDA/CSREES, , Grant #2007-55618-18222 to the University of Vermont. It was directed by Bob Parsons (University of Vermont) and Kathryn Ruhf (Land For Good). G.W. Stevenson (University of Wisconsin emeritus) coordinated three research teams led by Jess Gilbert, Michael Bell (University of Wisconsin/ Madison) and John Baker (Iowa State University). Charles Steiner (University of Wisconsin/Platteville) led the Education team. Fourteen additional consulting team members from around the U.S. participated in research, education and outreach activities. (Please see over for Project Team members*). For more information, please contact Kathy Ruhf at kzruhf@verizon.net.*

[1] *In this project, the terms "farms", "farmers" and "farmland" are used to include ranches, ranchers, and ranchland respectively.*

FarmLASTS Project Partners

- **Mary Ahearn** is a Senior Economist, USDA Economic Research Service.
- **John Baker**, attorney, is the administrator of the Beginning Farmer Center at Iowa State University. He also coordinates the International Farm Transition Network.
- **Michael Bell** is a Professor of Rural Sociology at the University of Wisconsin/Madison.
- **Robert Bernstein**, Land For Good, NH, has expertise in affordable housing and farm transfer planning with diverse populations.
- **Lawrence Dixon**, consultant, MA, has worked with socially disadvantaged domestic and international populations on agriculture and food security issues for 18 years.
- **Jess Gilbert,** Professor of Rural Sociology, University of Wisconsin/Madison has studied farmland ownership for over 20 years.
- **Dave Goeller**, Agricultural Economics University of Nebraska Extension, is a farm/ranch transition specialist.
- **Debra Heleba**, coordinator, Land Link Vermont, and VT Women's Ag Network, matches and assists entering and exiting farm families, and works with women farmers.
- **Annette Hiatt** and Dania Davey are attorneys at the Land Loss Prevention Project, NC, where they specialize in agricultural land tenure and estate planning.
- **Billy Horton**, NH, has a Ph.D. in Sociology; he spent several years studying landownership patterns, particularly absentee ownership.
- **Brett Melone**, executive director, Agriculture and Land Based Training Association (ALBA), CA, works with Hispanic farm workers and limited-resource farmers.
- **Robin Kohanowich** is the sustainable farming coordinator at Central Carolina Community College in Pittsboro, NC**.**
- **Denise O'Brien,** coordinator, Women, Food and Agriculture Network (IA) and a farmer.
- **Robert Parsons** is Extension Associate Professor in Farm Management, University of Vermont. He leads a six-state farm transfer education project.
- **Kathryn Ruhf**, Land For Good, MA, has worked on farm entry, tenure and succession issues for 20 years and co-authored several publications on these topics.
- **Selena Polston** is a professional focus group leader and trainer based in California.
- **Steve Schwartz**, executive director, California Farm Link, specializes financing models for land acquisition, and long-term leases.
- **Charles Steiner** is an Assistant Professor in Agribusiness, University of Wisconsin/ Platteville.
- **G.W. (Steve) Stevenson,** Associate Director, Center for Integrated Agricultural Systems, University of Wisconsin/Madison, emeritus, has studied farm entry and tenure.
- **Jennifer Taylor** teaches in the School for Beginning Dairy and Livestock Farmers at the University of Wisconsin/Madison.

Land For Good

LAND FOR GOOD: Who We Are

Land For Good was founded in 2001 to help farmers and other landowners keep New England's working lands working. Since then, our programs have reached several thousand farmers, landowners, community leaders and service providers. LFG specializes in helping people get onto, care for, and pass on working land. We promote conservation values, equitable access to land, and local economies.

Land For Good offers New England farm families, beginning farmers and non-farming landowners customized consulting and "coaching" services, educational information and resources. We address the concerns of exiting farmers as well as the land and housing needs of people who seek to work the land. We help farmers leave a meaningful legacy and bring a new generation of farmers onto the land.

Our Programs

Land Here! Program helps seekers acquire a farm or farmland. We help beginning and other farmers plan, search for and evaluate agricultural properties. We help recruit farmers and get them onto suitable land with affordable and secure agreements.

Farm Transfer Planning Program helps farm families begin and complete the succession planning process. Our key activity is coaching–an innovative, client-centered approach to planning. We build teams of qualified professionals who address all aspects of the succession and transfer process.

Working Lands Program helps maintain or revitalize agricultural properties. We work with private, organizational government clients – especially non-farming owners of agricultural land – on farm design, conservation development, management, lease and agreements, farmer recruitment and land use planning.

Land For Good helps find solutions that are good for farmers, landowners, communities and the land.

Land For Good
29 Center Street
Keene, NH 03431
603 357-1600

www.landforgood.org
info@landforgood.org

Preface

This manual is a guide to resolving the kinds of conflicts that arise when farmers and nonfarmers live together in rural communities: conflicts over farming practices, life styles, land use, the environment. We designed the manual to help farmers and neighbors, regulators, local government officials, environmental advocates, and interested citizens become familiar with the process of *collaborative problem solving*. Collaborative problem solving draws on mediation and/or facilitation skills and involves an approach to conflict that engages participants in resolving differences constructively. Equally important, the process helps build socially strong and economically vital communities.

The manual that follows reflects the authors' varied professional expertise as well as our experience working with communities around the state as they grappled with farm-neighbor conflicts. We have divided the manual into four chapters that provide the context and the concepts that can help you reach accord on critical matters. An appendix of contact information with Web addresses (*The Resources,* p. 35) appears at the end. The chapters are:

We would like to thank the Sustainable Agriculture Research and Education program of the U.S. Department of Agriculture for funding this project (Grant No. ENE-99-50) and for patiently awaiting its conclusion. We would also like to thank Barbara Bellows, agriculture specialist at Appropriate Technology Transfer for Rural Areas, Larry Fisher, senior program manager at the U.S. Institute for Environmental Conflict Resolution, and Tahnee Robertson—who were at Cornell during the project's formative stages—for their leadership; Cathy Sheils, director of NY FarmNet, R. David Smith, CALS Professor of Agriculture and Food Systems Sustainability, and Bob Somers, chief of the Agriculture Protection Unit at the Department of Agriculture and Markets, for their high standards in reviewing this manual; the Cornell Center for the Environment for administrative support; and all the farmers, neighbors, Cornell Cooperative Extension educators, dispute resolution center mediators, and agency representatives who gave of their time and their knowledge to join us in this collaborative journey.

Finally, the authors acknowledge the contribution of an excellent earlier Cornell publication, *Cultivating Farm Neighbor and Community Relations* (see *The Resources*). The document is a useful companion to ours and offers a particularly helpful list of ways farmers might promote good neighbor relations.

The Issues

Nonfarming neighbors
worry about…

- Odors and air pollution
- Dust and flies
- Well and ground water contamination
- Peace and quiet
- Property values
- Quality of life

Throughout the Northeast, suburban life is spilling over into rural communities. City dwellers and suburbanites seeking serenity, open space, and fresh air are moving to the country. Oftentimes they locate right next to a farm or within a farming community. For many, farming is only vaguely familiar:

Picturesque barns *Pleasant landscapes* *Fresh vegetables*

But suddenly, these new neighbors are face to face with the stark realities of farming:

➜ manure spreading ➜ pesticide spraying ➜ equipment noise ➜ odors & dust ➜ housing for migrant labor ➜ slow-moving tractors on roads

"What are you guys doing over there?"

"These are animals. Of course they smell."

"I can't havest my fruit without migrant and seasonal workers."

"I'm protecting my crops against pests and diseases."

"I'm working my farm."

"My fields need to be fertilized."

And then farm-neighbor conflicts erupt. Some even grow to the point where the entire community is involved. Polarization may crowd out communication.

Of course, not all farm-neighbor conflicts involve newcomers. Sometimes concerned neighbors are farm families themselves. Sometimes the changing nature and scale of agriculture in a given place leads to conflict.

And when conflict erupts, many of us turn to the law. Laws and regulations are meant to impose order, to balance competing rights and claims. Laws and regulations are supposed to protect all parties. Farmers, for example, have certain legal rights to farm and an interest in preserving their livelihood. Neighbors, meanwhile, have certain legal rights to clean air and water and an interest in preserving their peace and quiet.

But laws and regulations are not always sufficient. Because rights often clash. And because rights don't wash away anger or worries. And angry, worried neighbors find ways to express their displeasure.

The neighbor asks:

"Can he get away with that?"

"I'll take him to court."

"I'll complain to the town supervisor."

"I'll start a protest movement."

Offended and exasperated, some farmers feel attacked.

The farmer asks:

"Can he get away with that?"

"This is my land and no one can tell me what to do."

"I'm just trying to make a living."

"I was here first."

Farmers ***are concerned about…***

- Making a living
- Keeping good land in production
- Planting and harvesting on time
- Growing high quality produce
- Providing nutrients for crop production
- Controlling plant diseases and pests
- Environmental regulations
- Adequate supply of labor

"I'll just make his life miserable,"
"I'll just make his life miserable,"
"I'll just make his life miserable,"
"I'll just make his life miserable,"
"I'll just make his life miserable,"
"I'll just make his life miserable,"
"I'll just make his life miserable,"

Conflicts over interests. Conflicts over concerns. Conflicts over the interpretation of laws and regulations. Each party believes its interests and concerns are paramount. Each party believes its facts are accurate, its take on the situation true and clear. Farmers and neighbors often do not talk to each other about the problem.

Or… One party is not satisfied with the response of the other.

Or… One party doesn't understand the other's point of view or the other's fears.

And sometimes both sides think about escalating, which in turn raises the specter of reprisal.

But farmers and neighbors have more constructive options besides ignoring each other, shouting, or threatening. They can build understanding and work on reconciling their differences in a way that leads to win-win outcomes. Because doing so…

- ➜ saves time
- ➜ saves money
- ➜ saves aggravation
- ➜ avoids hurt feelings
- ➜ builds trust
- ➜ builds relationships
- ➜ builds communities
- ➜ generates outcomes more likely to meet everyone's needs

So, when a conflict threatens to spin out of control, what can you do?

Try a different approach to resolving conflict. Empower yourself and your community. Reach out to people with collaborative problem-solving skills. People like mediators or facilitators who can help parties in conflict move beyond accusations, anger, and frustration to instead focus on issues, mutual interests, and problem-solving strategies.

Collaborative community problem solving

helps farmers and neighbors resolve conflicts in a manner that builds trust and enhances community understanding.

to

learn

more,

read

on…

The Rural Landscape

New York's Agricultural Sector

Farming is a big deal in New York: a $3.5 billion industry that accounts for thousands of jobs on farms, in processing plants, in supplier operations, and in retail stores and restaurants. We have about 37,000 dairy, fruit, vegetable, horticulture, hog, poultry, and other livestock farms, which cover 25% of the state's land mass. Our farms supply us with more than just food: in particular, lush landscapes of rolling green fields, carefully tended orchards, and serenely grazing cows.

Diversity reigns. Dairy farms with 1,000 cows and 20 employees and dairy farms with 40 cows and one part-time employee. Fresh market crops like apples and sweet corn, processed crops like cabbage and beans, and value added products like goat's milk cheese and table wine. Full-time and part-time operators. Farms that have been in the family for generations and farms operated by first generation farmers. Products sold directly to supermarkets, to commodity buyers, and to consumers on the roadside or in farmers' markets. Products for export and products for domestic consumption.

Although New York ranks in the middle range nationally for cash farm receipts, we're near the top in several key categories:

2nd in apples
3rd in milk production
3rd in wine & juice grapes
6th in vegetable harvest

Farmers must be doing really well. Right!?!

Well, not quite.

Farming is a tough and risky business. There are many factors farmers can't control:

Weather
Cost of supplies
Product prices
Global and domestic competition
Trade and foreign policy
Taxes

Other factors add stress to farmers' lives:

- Environmental concerns
- Community relations
- Complex financial arrangements
- Unstable and sometimes inadequate labor supply
- Changing technology
- Pests and disease
- Uncertainty over federal farm policy
- Interpersonal dynamics of a family business

24/7

Here's the bottom line. Some farmers run profitable operations and enjoy a comfortable standard of living. Others earn more modest returns and count on outside income from a spouse or a second job. Still others may have trouble paying farm expenses. Most farmers will tell you they love their work and way of life, even with the challenges and stresses. But regardless of size, profitability, or product, farming is a 24/7 commitment.

New York farms have become more productive over the years while the total amount of acreage farmed has declined. More than 225,000 farms were spread across an expanse of nearly 23 million acres in this state at the turn of the 20th century. By the end of the century, fewer than 40,000 farms were left covering about seven million acres of land. Most land released from farming has reverted to forest. The rest has been "urbanized."

What accounts for these trends?

- Poor financial returns
- Marginal soils
- No heirs to take over
- High price offered for land (e.g., alternative use as housing or commercial development)
- Physical and mental exhaustion
- Technological change and globalization of markets

Meanwhile, the number of large farms has increased. Technology tends to favor expansion by letting farmers benefit from economies of scale. Farmers save on labor and time by making greater use of their machinery. Imagine a highly automated milking parlor. With the latest equipment and up-to-date design, one person can milk 120 cows an hour. But a milking parlor can cost close to $1 million, which means the farmer needs a minimum of several hundred cows to justify the investment. Now consider a more traditional, lower-tech barn. Given the equipment and design limitations, one person may be able to milk 40 to 50 cows an hour. It's hard to keep a large herd with this kind of setup.

Bigger happens to be preferred by many food processors and retailers as well. In the fruit and vegetable sector, priority is often given to producers who can consistently deliver predetermined quantities of product while meeting quality, size, and packaging specifications.

But guess what? (And this is a neat paradox.)

(The number of small farms in New York has also jumped in recent years.) ?!

Think organic lettuce and eggplant, baby carrots and zucchinis, artisanal cheese from Belgian sheep. Small-scale operations, devoted to high value-added and niche products aimed at affluent urban and suburban markets, offer a fresh counterpoint to the standardization that is typical of large-scale enterprises.

Farmers and the Environment

Farmers are part of America's heritage. They opened up vast tracks of land in New York State and on the American frontier. Agriculture was the bedrock of our early state and national economies. Today, American farmers feed a nation of 285 million people and a sizeable portion of the world population, as well.

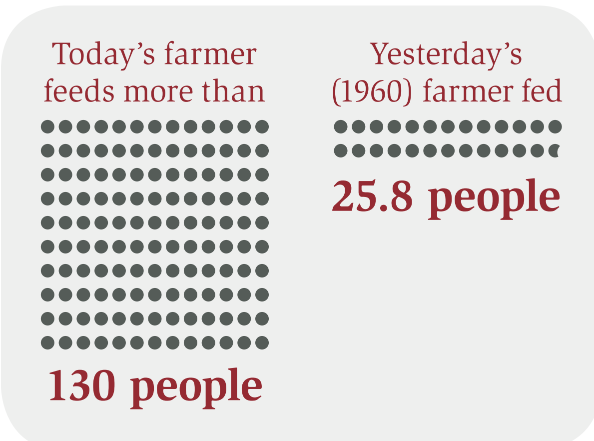


Chart source: New Yourk Farm Bureau

Most farmers also try to be stewards of the land. As they fertilize and seed and harvest, they help our society preserve and protect the land for current and future generations.

And yet, they sometimes face a dilemma: how to balance concerns about conservation and the environment with concerns about economic viability. To farmers, these often seem like competing interests. Finding the right mix can weigh heavily.

"I need to make a profit off my land. I don't need the government or nosy neighbors telling me what to do."

"My farm abuts a stream and I certainly don't want to pollute my own drinking water."

"I'm mindful of the regulations and my neighbors' concerns. I spend a lot of time trying to follow the regulations without going broke."

"If I don't protect and care for my land, I'll lose my biggest investment."

The pressure is on. Since the mid-1980s, the environment and personal health have been linked in consumers' minds. That means closer attention to the impact of farming practices on the air we breathe, the water we drink, and the food we eat.

"I'm OK with a worm in an occasional ear of corn. But pesticide—no way!"

Most farmers are mindful of these concerns. Even as they use chemicals to help protect their crops, many also follow environmentally sound "best management practices" such as:

- ➜ **strip cropping**
- ➜ **grass buffers near streams**
- ➜ **integrated pest management**
- ➜ **secure manure handling systems**

They work with Cornell Cooperative Extension educators, and with consultants, government agency representatives, farm suppliers, and bankers to find and implement cost effective methods that pass environmental muster.

"I follow a strict nutrient management plan that tells me the best time to spread manure on my fields. It's cheaper than buying fertilizer. It's also more natural."

But problems can arise because technology is not foolproof.

> *"Yuck. The odor from your fields is awful. And that lagoon really stinks even if you just installed the latest storage and handling equipment."*

Technology also keeps changing.

> "How do I know the best time to invest in some new machine or process? Every time I turn around, there's a newer and better idea."

Moreover, new technology is expensive. Farmers in environmentally sensitive areas, such as watersheds that contain fish spawning streams or reservoirs filled with drinking water, may qualify for government assistance through matching funds or grants when they install new equipment or update their practices. But farmers outside these priority areas may be less likely to receive cost-share funds. Without some financial support, farmers may not have the resources to invest.

> "If I have to buy that new sprayer, you know, the one with 'eyes' that see the trees and let me cut down on excess chemical use, I might as well chop down the whole orchard."

Farmers, like the rest of us when faced with too much uncertainty and too many choices, may opt out for a while, watching and waiting until the technology is proven by others and becomes more affordable.

Neighbors and Farm Labor

Another sort of environmental conflict sometimes arises in rural areas. That is, conflict over a changing community environment.

> *"What is happening to this town? Who are all these people?"*

> "Apples don't ripen at my convenience. They need to be picked *now*. Those workers help me harvest the crop."

> "We just added another 200 head. These folks have a job to do; they milk and feed our cows."

Foreign workers are increasingly common on New York farms. In some communities, conflict arises over their presence. Neighbors may resent the flood of new arrivals who come for jobs that last from several weeks to several months and others who settle in for what seems to be the long haul. They may have concerns about whether farmworkers are paid fair wages and provided adequate housing. Neighbors also worry about how these workers fit (or don't) into the community.

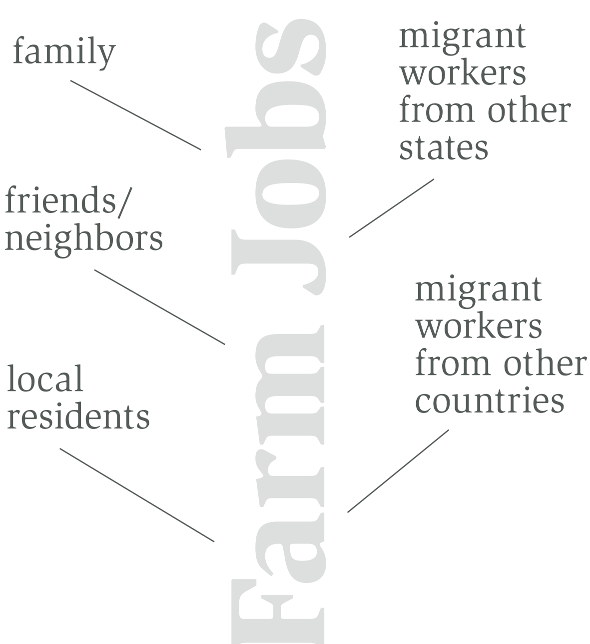
It used to be that farm families supplied almost all the labor needed on the farm. As farms grew larger, farm operators began hiring labor from the local community. During peak season, farmers turned to friends and neighbors for help. By the mid-20th century, some farmers in New York State were recruiting African-American workers who migrated from southern states to work the harvest.

But times have changed. Local residents aren't as eager to take farm jobs as they once were, and southern workers have found work back home. Still, farms are getting larger and farmers' demand for labor keeps growing.

"My dairy farm employs two full-time milkers. When I was a kid, my dad managed with my mom, my sister and me."

"Since we bought that vegetable farm down the road, we can't handle the work load ourselves. Every summer I have to bring in crews from out-of-state."

Mexican-Americans, Mexicans, Guatemalans, and others from Central America now supply an increasing amount of the labor to New York farms. And they are changing the social environment in many rural communities. These immigrants, legal and illegal alike, work and usually live on local farms. They shop in town and send their children to local schools. Some stay in the state year round and others come for the harvest season only. They bring their language, their customs, and their own group cohesion.



Both new and long-time residents may have trouble adjusting. For some, the look and feel of the community are no longer familiar. They may be suspicious of "foreigners." They may worry about the impact on property values, on educational quality, on crime rates, on the demand for social services.

"All these Hispanics in the stores and wandering around town. They don't speak English; they look scruffy; their camps are an eyesore."

"Who's going to pay for that new migrant health clinic? I sure can't afford higher taxes."

Likewise, farmworkers may not feel welcome in local communities. They, too, may have trouble adjusting. The culture, the language, the laws, the surroundings. All new, all different.

"I just want to buy some food. Why is everyone staring at me?"

"I work hard for my money. And I save a lot, too. My family in Mexico depends on me."

New York agriculture needs workers to keep production going. And with local labor in short supply, farmers will continue to look beyond the state's borders for help.

The Rural-Urban Interface

The face of rural New York is changing. Here, as elsewhere in the U.S., the siren song of country living calls loudly to city dwellers and suburbanites. They come seeking open spaces, quiet, and a slower-paced lifestyle. This demographic shift is most noticeable in the Hudson Valley, the lower Catskills, and the greater Rochester area.

But when these newcomers arrive, they find themselves smack in the midst of rural reality that is not always trouble free.

Many are shocked. Many get angry. Many are unfamiliar with the customs of the community. They have no long-standing relationship with long-term residents. They lack knowledge of commonly accepted farming practices and relevant laws and regulations. What they do know is that their expectations about life in the country are being violated. So the neighbors voice their concerns. Loudly. They call the town board. They call state and county regulators. They call the Soil and Water Conservation District. They call Cornell Cooperative Extension. They write letters to the local newspaper. They circulate petitions. And sometimes they call a lawyer.

But are protests, court proceedings, and harassment the best way to resolve the problem? Probably not. All too often, the farmers get defensive. The neighbors feel frustrated. Communication stops. Community relations fray.

"Their cow broke my fence and wandered into my yard."

"Do you believe it? The farmer next door was running some giant piece of equipment at full throttle—and the flood lights were shining right in my window—at one in the morning!"

"I can't drive down the road without running into some tractor or running over some cow dung."

"The guy across the way is actually dropping weed killer from an airplane. It's not safe to breathe around here."

"That manure is polluting my well. I'm going to file a lawsuit."

"I can't even go outside. We're being assaulted by flies. That farmer is looking for trouble."

"I moved here for my kids. But all that's happened is we traded city traffic for noisy equipment. Now we worry about pesticide drift instead of exhaust fumes and wandering livestock instead of lost pets. And don't get me started on the illegal immigrants. This has got to stop!"

So what's the alternative?

Here are a few suggestions for productive farmer-neighbor interactions:

1. Farmers provide neighbors with information about the farm (hold an open house; send newsletters) and how to contact the farm owner with questions and concerns.

2. Neighbors contact the farmer immediately and directly when problems arise and treat the farmer with respect when sharing concerns or asking questions.

3. Farmers and neighbors openly and calmly discuss what constitutes normal and acceptable farming practices.

4. Farmers are mindful of neighbors' concerns and anxieties.

5. Neighbors understand the financial and technical constraints that may affect the farmer's ability to address their concerns.

6. Neighbors respect the economic and social context of farming.

7. All parties seek to compromise on a practice or intended outcome and allow for a reasonable transition period.

8. Farmers and neighbors call upon social and economic supports, including individuals and organizations, that can assist them through a potentially difficult conflict management process. This may involve facilitation and conflict resolution programs and resources that can assist farmers and neighbors in finding a mutually acceptable resolution of the problem.

This model can be turned into reality. And you can make most of it happen on your own. The last two suggestions, which often require outside assistance, are discussed in Chapter 4, *The Process.* But first, we'll explore one other preliminary topic: the laws governing agriculture. The next chapter contains an introduction to the legal and regulatory framework within which so many conflicts unfold.

http://www.joe.org/joe/2010june/tt9.php

Best Management Practices for Beginning Farmer Support

Abstract

Many beginning farmers have little previous contact with Extension, yet they will comprise an important part of our future base of support. We present those educational activities directed toward beginning farmers that represent high impact, outcome-based Extension programming, given an educator's time limitations. This checklist of insights will provide educators with a clearer sense of how they can most effectively spend their beginning farmer support time. The lists are divided into workshop strategies and one-on-one strategies.

Keywords: new farmers, beginning farmer, novices, time management, Extension and beginning farmers

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Introduction

Extension educators receive many inquiries each year from individuals and families sincerely interested in starting a new farm. Increasingly, educators are recognizing the significance of providing high-quality assistance to beginning farmers. Whether these inquiries are handled on an individual basis or as group workshops, Extension educators working with beginning farmers usually agree that helping agriculture entrepreneurs plan out their vision is as meaningful as all the referrals and production guidelines.

Although several older studies and papers provide useful guidelines for beginning farmer education (Griffith, 1991; Trede & Whitaker, 1998), drastic changes in where and how people get information about starting a farm compel us to improve upon our new farmer education efforts.

We have identified those educational activities directed toward beginning farmers that represent the highest impact, outcome-based Extension programming. The insights should provide Extension educators with a clearer sense of how they can most effectively spend their beginning farmer support time.

It is helpful to think of these as "Best Management Practices for Beginning Farmer Support" (BMPs for BFS)—techniques and actions preferred by new farmers, straightforward for the educator, and more likely to develop a successful farmer-educator relationship.

We developed this list of BMPs for BFS by testing different contact techniques over the past 5 years in rural, semi-rural, and semi-urban communities. Additional ideas came from new farmers responding to the question, "What aspects of new farmer training are working well for you?" We also convened a group of Extension educators in New York who specialize in serving beginning farmers to distinguish good practices from bestpractices.

Working with Beginning Farmers One-on-One

- Gather key information over the phone first, and use an "intake sheet" to keep your data organized (see example at http://www.nybeginningfarmers.org/educators/index.php?page=intake). Your records of phone calls and walk-ins will give you hard formative data on what social, agronomic, and land use trends are occurring.
- Recognize that many beginning farmers come to us with "lifestyle" goals, and a business plan does not naturally flow from that mindset. Let them get to the point where they want a business plan to continue developing the farm. This pace will be different for each entrepreneur. After all, even veteran farmers do not necessarily have business plans.
- It is better to visit the prospective farmers on their land if possible. While this used to be the norm in Extension, time limitations have made farm visits more rare. Your visits will give you more information about infrastructure and marketing possibilities.
- Be considerate of their intent to jump right in to farming. Help define a measurable goal for the next few months as they get started. Write that goal down in a letter or e-mail and help them achieve it. Our job is to guide beginning farmers from one success to another.
- Before breaking off the meeting, set a follow-up appointment in a few months. Avoid the temptation to say "call me if you need help." You might not hear from them again.

Working with Beginning Farmers in a Workshop Setting

- Nothing beats having farmer speakers explain the details of raising a crop or livestock in their own words; this always resonates strongly with beginning farmers. The farmer presenter should be a successful farmer, not one who would lament on problems or be discouraging. This could leave new farmers confused. Encourage farmers presenter to bring along the books or resources they finds most helpful in running their farm.
- Blend farm business topics with production topics—do not treat them as separate subjects. For example, refer to cash flow, tax programs, and marketing while you discuss crop planting, harvesting, and storage. In real life, they are intertwined.
- A planned series of shorter classes has more impact on the participants than a one-time event. The time between sessions allows them to think of questions to address in class.

- If you can only do a 1-day event, present it as a sampler of possibilities, knowing that follow-up may be difficult. Classes should not be longer than 2 hours—the information can be overwhelming to take in all at once.
- Plan for an informal period (30-45 minutes) for participants to talk to each other or the presenters one-on-one. Many participants will be reluctant to ask questions in front of the group and prefer to make personal contact with others.
- Build in a way to follow up directly with each participant at least once after the workshop. Place them on an announcement list to keep them updated.
- You do not need to separate those "exploring" farming possibilities from those who have already started farming. Both have a lot to learn from each other and from experienced farmer speakers.
- It is worth the effort to host a beginning farmer class at a working farm, though the logistics can be difficult. The overall experience is very valuable, because many beginning farmers have not been on a farm lately to see modern small farm features (e.g., plasticulture, intensive rotations, drip irrigation, and fencing).
- Provide time for participants to write down their questions at the beginning of a workshop or series and again part-way through. Answer these questions in writing for the benefit of the whole class.
- Use a skills and knowledge checklist so beginning farmers can see which they have mastered, which they are developing, which they had no idea they would employ, and which to target for additional training.

BMPs Work Only When They Are Used

Many new farmers are also new to Extension. The impression they form of your Extension program at the outset will affect their participation in the future. The ideas presented here are meant to help you make the most of the time you spend working with new farmers, even if it is just a few hours each month. Like BMPs in any other realm, it is not enough to know about them; they are techniques that will deliver great results if put into action.

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