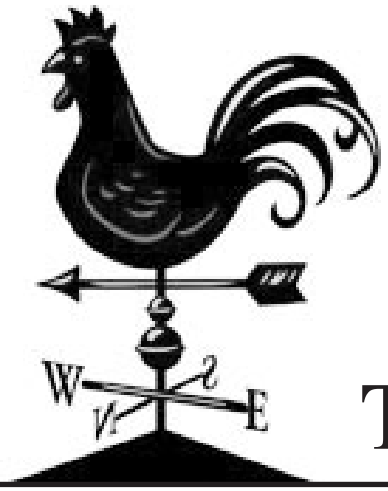

The FarmLASTS Project

Farm Land Access, Succession, Tenure and Stewardship

Research Report and Recommendations from the FarmLASTS Project

April 2010

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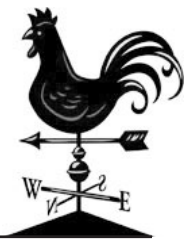
For more information about the FarmLASTS Project, and additional resources, including curriculum modules, visit www.uvm.edu/farmlasts.

NOTE: All websites referenced in this report were accessed in February 2010. Links in PDF are live.



EXECUTIVE SUMMARY

The research. This research report addresses farm and ranch access, tenure, succession and stewardship in the U.S. The FarmLASTS Project researchers investigated how farms and ranches are acquired and held by farm entrants, and how new land tenure and transfer approaches can improve opportunities for farm viability and land stewardship.

The research objectives for the project were to investigate and evaluate:

1. Farm entry through traditional and non-traditional land tenure arrangements;
2. Farmland succession planning and execution strategies; and
3. Environmental impacts associated with farmland tenure and succession arrangements.

The report emphasizes successful and new approaches and models to address the challenges identified by researchers, field informants, focus groups, case study interviewees and participants at a national conference sponsored by the project. Public policy, programming and research recommendations were generated. For a detailed summary of research findings and recommendations, see Section V.

The findings. U.S. agriculture faces significant challenges regarding how farms and ranches are acquired, held, transferred and managed for conservation. Over the next twenty years about 70% of the nation's private farm and ranchland will change hands, and up to 25% of farmers and ranchers will retire. Two-thirds of the nation's farm and ranch asset wealth is held in real estate; farm real estate values more than doubled from 2002–2008. Women, absentee and non-farming landlords are increasing. Cost, competition and availability of land (and often housing) are major challenges for most beginning farmers. Fewer entrants acquire farms from family members and more entrants come from non-farm backgrounds. Socially disadvantaged populations face additional challenges acquiring farmland.

Given the weighty financial and emotional considerations, older farmers often resist developing farm succession plans. Studies show that over two-thirds of retiring farmers do not have identified successors and nearly 90% of farm owners neither had an exit strategy nor knew know how to develop one. Transfer of management is often overlooked as a key element in succession planning, and often farm families don't know where to turn for help or can't find it.

Under the right conditions, renting farmland can offer beginning farmers a flexible, lower-cost alternative to purchasing land. However, short-term cash leases—the increasingly dominant rental type—create uncertainty for farm entrants and discourage conservation. Innovative tenancy models like longer-term leases with environmental stipulations hold promise for increasing both security and conservation. Landowner education, social norms and tenure agreements affect operators' conservation practices and investments. Public and institutional landowners can play key roles in making property available and demonstrating new models for land acquisition and stewardship.

The recommendations. For a resilient agriculture, both land ownership and tenancy—under the appropriate conditions—should be accepted and promoted as tenure options. U.S. agriculture policy should foster farm entry and viability by promoting: a) increased opportunity to access to farms and ranches; b) affordable options to acquire land and housing; and c) secure tenure. Farmland owners, especially non-operator landlords, should be educated and encouraged to offer affordable and secure tenure situations that promote conservation, and to actively relate to the land operator.

Public policies should encourage and support the timely transfer of farm businesses and properties in ways that assure a comfortable transition and meaningful legacy for the retiring farmer, and affordable opportunity for the next generation. Farm families should be able to obtain adequate, informed assistance from teams of advisors equipped with the full arsenal of transfer tools and methods. Special attention should be paid to families without farming heirs, the junior generation, women inheritors and socially disadvantaged populations. Policies and programs should reflect the relationship between land tenure, land use and conservation. Tenants and landlords should be encouraged to implement conservation activities on farm and ranch land through a combination of information, education, incentives and removal of social and economic barriers. Lease arrangements that foster longer-term security, equitable sharing of costs of conservation, and landlord engagement should be promoted.

I. INTRODUCTION

A. Research Background and Approach

The research component of this integrated project addressed: 1) farmland[1] access and tenure and challenges for farm entrants; 2) farm succession challenges for exiting farm operators; and 3) the impacts of tenure and succession arrangements on land use and the environment. We investigated how farmland is acquired and held by farm entrants, and how new land tenure and transfer approaches can improve opportunities for farm viability as well as land stewardship.

Three research teams conducted the research, each comprised of a university faculty or staff supported by a graduate student, and overseen by the project's research coordinator. The research coordinator and project co-directors contributed additional research, writing and editing.

Research emphases, objectives and questions. The overall approach to project research was to gain a thorough understanding of the subject matter and to focus on successful and innovative approaches to address the identified challenges in each of the three subject areas.

The research objectives for the project were to investigate and evaluate:

1. Farm entry through traditional and non-traditional land tenure arrangements;
2. Farmland succession planning and execution strategies; and
3. Environmental impacts associated with farmland tenure and succession arrangements.

Team 1: Farm entry through traditional and non-traditional land tenure arrangements. The primary research question for this team was: What traditional and non-traditional land tenure arrangements hold promise for increasing access, affordability, security and profitability for entering small and medium-sized farmers and ranchers? Focus was placed on the *entry side* of the farm succession and transfer equation.

Team 2: Farmland succession planning and execution strategies. The primary research question for this team was: What approaches hold promise for overcoming current barriers and increasing successful succession strategies and processes among older and exiting farming families? Focus was placed on the *exit side* of farm succession and transfer.

Team 3: Environmental impacts associated with farmland tenure and succession arrangements. The primary research question for this team was: In what ways can environmental stewardship be increased through land tenure agreements associated with entering farmers and/or farm succession? Focus was placed on protection of the natural resource base through mechanisms associated with both the entry and exit sides of the succession equation, including landlord-tenant relations.

Literature review. Each team began with a thorough review of existing academic literature related to its subject matter. Researchers also identified and reviewed relevant websites. Reviewers and project staff edited and added to the initial literature review.

Field informants. Next, each team confirmed, expanded, and situated the literature information through interviews with field informants—subject matter experts in various disciplines and regions. The project team identified over sixty field informants, including academics, USDA agency personnel, farmers and non-governmental professionals.

Focus groups. Researchers obtained additional knowledge from the transcripts of ten focus groups of "special populations" of farm landowners and farm entrants. These facilitated focus group discussions were conducted in person or by group teleconference by project team members. Facilitators received training prior to conducting the groups. Facilitators were charged with recruiting participants. The research coordinator and research teams drafted a standard set of questions. Each session was recorded and transcribed.

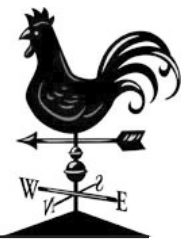
Sessions were conducted with the following groups:

Farmland owners:

- Non-farming/absentee;
- Elderly women;
- African-American;
- Public land and land trusts; and
- Religious orders.

Entering farmers:

- Women;
- African-American;
- Hispanic-American; and
- Immigrant/refugee.



1 The terms "farmers" and "farmland" are used to include both ranchers and farmers, and ranchland and farmland respectively. Farmland includes cropping and pasture land as well as sites for housing and farm buildings.

Case studies. Next the researchers identified case studies that exemplified successful and creative approaches as well as challenges associated with the issues under attention. Researchers conducted interviews and wrote up the study according to a pre-designed template.

Review. Draft reports were circulated for review by project advisors. A total of thirteen agriculture professionals, farmland owners and farmers commented on the drafts. The project's research coordinator, co-director and director provided substantial review, additional research, models and examples, and editing.

Conference input. At the project's national conference in June 2009, attendees were given a form on which to submit ideas, examples of successful and innovative approaches, and policy recommendations. Ideas and recommendations from over 50 conferees were integrated into the research reports.

Findings. Strategic findings were generated from the analysis of information gathered through the various research methods. The project's research reports examine the issues and emphasize successful and new approaches. In each of the three topic areas, project staff articulated recommendations for program, policy and future research. The information from the research was presented at the conference and integrated into the project's curriculum modules and online resource manual. Policy recommendations were disseminated to federal and state policymakers.

B. Context

The future of U.S. agriculture depends on the ability of new generations to establish successful farms and ranches. One of the biggest challenges to entry is gaining access to affordable and secure agricultural land. Farmland access and transfer are particularly important for small and medium-sized farms and ranches because they currently control over 80 percent of U.S. agricultural land. However, the issues addressed in this report pertain to all farms and all farmers. In the balance are the quality of life and economic vitality in agriculturally dependent rural communities and the use, protection and enhancement of the nation's working lands.

An estimated 70 percent of U.S. farmland will change hands in the next twenty years[2]. This includes land owned by farmers, and land rented by farmers from farming and non-farming landlords. There are multiple challenges in farm entry, exit, tenure relationships and succession. It is harder than in past generations for new and beginning farmers to acquire land, and older farm operators face increasing complexities as they prepare (or do not prepare) to exit farming. Farm landlords are less involved in the farm operation and live further from the community where their property is located. Finally, the nature of farmland transfer and tenure agreements can significantly impact future stewardship of the land.

...the nature of farmland transfer and tenure agreements can significantly impact future stewardship of the land.

As this report points out, the challenges surrounding farm tenure are not new. But they have become more critical as the farming population ages, land is increasingly difficult to acquire, and concerns intensify about land use and stewardship. The report findings suggest a pressing need to develop strong programs and policies to address these issues, and to share new and successful approaches to land access, tenure and succession.

C. Connections

This report raises significant issues about farm and ranch access, succession and stewardship. The report is divided into three sections that focus on these three themes. However, the issues related to farm entry and exit, farm transfer and environmental stewardship are interrelated. These relationships include:

1. **The connection between farm entry and farm exit**. Successful farm entry and access to farms are often one side of a coin whose other side is successful farm exit and farm transfer. This entry/exit connection is particularly important given current shifts in farmland ownership and farm entry dynamics. Increasingly, farmland is held by "non-traditional" owners: women (often widows); non-farming and absentee landlords; investors; and organizational entities. Shifts in farm entry and farmland access dynamics include: fewer entrants acquiring farmland from family members; increasingly more entrants coming from non-farming backgrounds; and a (small) growing percentage of retiring farmers identifying daughters as potential successors. Farm

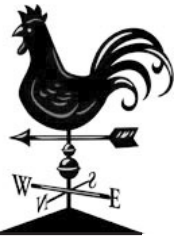
2 Kohl, David and White 2002

entrants from socially disadvantaged populations face additional challenges in acquiring farmland. These include persistent discrimination, cultural and language barriers, and fractionated heir property.

2. **The disjuncture between projected farmer exits and the lack of preparation for succession by aging farm families**. An estimated one-quarter of current farmers will retire in the next twenty years, and seventy percent of the nation's agricultural land is projected to change hands. Nearly ninety percent of farmers and farmland owners neither have an exit plan nor know how to develop one. Of farmers planning to retire only about thirty percent have identified a successor, a critical step in farm succession planning. To be most effective, farm succession and transfer planning often involves a team of professionals working in consort toward the farm family's goals. Many farm families are disinclined to seek such professional help, and often such help is hard to find.

3. **The association between land rental arrangements and environmental stewardship**. There is nothing inherent in farmland rental that results in inferior environmental stewardship. Problems arise largely depending on the nature of the rental arrangement and landlord-tenant relationships. Short-term (often annual) leases and the uncertainty associated with them tend to discourage environmentally related investments or practices on the part of tenants. Short-term cash rental agreements, the lease types most negatively associated with environmental stewardship, are increasingly dominant in U.S. agriculture.

4. **The connections among farm entry, alternative land rental models and environmental stewardship**. These alternatives to annual cash rental agreements include longer-term leases, share leases and flexible cash agreements, lease-to-purchase agreements, and leases with environmental stipulations. While the vast majority of farmland dynamics occurs in the private sector, public and institutional landowners can play important roles in making farmland available to entering farmers, and engaging new models for land rental, acquisition, and environmental stewardship.



A. Context

How will the next generation of farmers acquire the land to farm or ranch? This question is arguably among the most pressing challenges now facing U.S. Agriculture. The facts speak for themselves. Since 1978, both the rate of entry for young farmers and the rate of exit for older farmers have declined significantly (Gale 2003). Between 1997 and 2007, according to the US Census of Agriculture (1999; 2009), the average age of principal farm operators rose from 54.0 to 57.1 years. In 1997, farmers over age 54 accounted for 47% of the principal operators. By 2007, 57% of U.S. farmers were over the age of 54, and nearly 30% of principal operators were older than 65.

Concurrently, there are fewer principal farm operators under the age of 35 in the U.S. than at any time of accurate data collection, and the number is getting smaller each year (USDA NASS 2009). In 1997, 8.1% of principal farm operators were under the age of 35, but by 2007, this group accounted for only 5.4% of principal farm operators. This is a decrease of close to 34% in only 10 years. And today, there are twice as many principal farm operators over the age of 75 than there are farmers under the age of 35.

As a partial consequence of this pattern, farm ownership is also becoming increasingly concentrated among older farmers. In 1982, for example, 29% of farmland owners in Iowa were over the age of 65. Twenty years later, in 2002, a full 55% of owners were over 65. In the U.S. as a whole, over 60% of farm landlords were over the age of 60 and 40% were over 70 years old in 2007 (Duffy and Smith 2004). The tables below, from the 1988 and 1999 Agricultural Economics and Land Ownership Surveys (AELOS), clearly demonstrate the changing pattern of farmland ownership in the U.S (USDA NASS 1988 and USDA NASS 1999b).

Table 1. Farmland (Lessor) Owners by Age

Age of owner	Number of land owners	Percent of land owners	Number of leases	Acres (1000)
Under 25	5,846	0.40	6,773	978
25–34	33,647	2.30	37,657	5,701
35–44	85,569	5.83	98,266	13,118
45–49	61,537	4.20	68,776	8,271
50–54	76,111	5.19	93,027	13,118
55–59	107,135	7.31	120,055	17,412
60–64	125,876	8.58	161,314	26,170
65–69	144,511	9.85	175,236	34,523
70 +	426,015	29.05	518,272	80,235
United States	1,466,542	—	1,895,283	331,923

Data source: 1988 AELOS Table 108 “Land Owned and Leased to Others by Ownership Characteristics.”

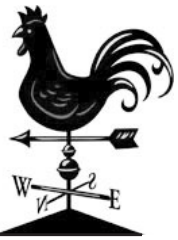


Table 2. Farmland (Lessor) Owners by Age

Age of owner	Number of land owners	Percent of land owners	Number of leases	Acres (1000)
Under 25	2,260	0.14	2,390	146
25–34	25,079	1.53	29,278	3,150
35–44	128,385	7.84	166,690	17,889
45–49	104,258	6.36	140,663	16,505
50–54	132,634	8.10	201,687	29,928
55–59	152,064	9.28	209,807	30,339
60–64	177,326	10.83	245,899	37,007
65–69	179,041	10.93	254,817	41,817
70 +	661,683	40.39	991,445	152,280
United States	1,638,033	--	2,457,978	394,336

Data source: 1999 AELOS Table 98 "Land Owned and Leased to Others by Ownership Characteristics."

This data prompts two questions. How will the next generation of U.S. farmers gain access to farmland? Does this situation call for new public policies?

Farming requires land, and gaining secure access to affordable agricultural land is one of the biggest challenges to farm entry. In this report, "land" refers to any land that can be used for agricultural production of crops and livestock in either farming or ranching as well as land for agriculturally related buildings and farm family residences. "Affordable" means the land purchase price or rental rate is within reach and economically viable for a new farmer. A corollary to affordability in this case is the ability to acquire the credit necessary to purchase or rent suitable land.

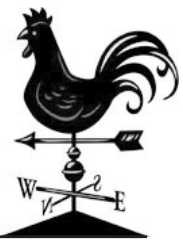
The basic patterns of farmland tenure in the U.S. have been set for about 200 years. Modern farmland tenure as practiced in the United States and Western Europe is a reaction to the feudalism that dominated Western Europe after the fall of the Western Roman Empire in 476 AD. With the American Revolution, the feudal-like tenure patterns attempted by the British government were abolished, and the dominant forms of land tenure in the United States became ownership, tenancy, and to a lesser extent, land held in life estates. One of the greatest attractions of settling in the U.S. was the dream of owning land. This powerful desire still pervades our culture today. The ways in which "the nation was settled, how public lands were transferred to private hands, and how newcomers received vast amounts of land all shape how Americans think about land" (Salamon 1998:160).

Access to affordable agricultural land has posed problems throughout the nation's history. Even in settled areas of colonial America, for example, affordable farmland was not easily accessible because of the lack of a financial credit structure. Land acquisition and ownership patterns are not simple. A complex combination of cultural, economic, policy, and interpersonal dynamics determines how farms and ranches are acquired and held.

In *Improving Farm Tenure in the Midwest* (Clark, 1944), the author comments: "How farm land is acquired, held in ownership, operated, or rented has always been a matter of national interest, for just and fair conditions of tenure are recognized as essential to our national welfare. …Obviously it is of vital concern to the nation that…types of land ownership and operation be developed that will be conducive to a permanent agriculture and to strong rural communities." Many believe this statement to be as relevant today as it was in 1944.

Farmland ownership carries an additional importance to farmers and the nation's agriculture; it represents about two-thirds of the country's farm asset wealth (Janssen 1993). Since land is "agriculture's principal asset," how it is held and controlled has serious implications for farming, the owners, and the nation (Rogers and Wunderlich 1993).

For reasons including declining agricultural acreage, fewer and older farmers controlling greater amounts of that acreage, higher values of farmland as demand from alternative land use increases, and a basic change in the structure of farming,



new entrants are finding it more difficult to gain access to farmland or compete with others to purchase their own land (Gale 2003).

1. Barriers to Land Access: Availability

One reason it's difficult to find farmland is that there are fewer acres of farmland today. Will Rogers is generally credited with the advice to invest in land because no one is making any more of it. The U.S. does have less farmland today. In the past 25 years, we have lost 171 million acres, following the loss of 73 million acres in the previous 25 years (US Census Bureau 2003; USDA Economic Research Service 2009). This accounts for a 20% reduction in farmland due to development, homes, roads, and forests in just the past 50 years. In addition, we also have 36.7 million acres enrolled in the Conservation Reserve Program (CRP) (USDA Farm Service Agency 2007). Therefore, there are 281 million fewer farmland acres for new farmers to farm today than were available in 1960.

Another reason new farmers have difficulty finding land is the growing number of operators who both own and rent farmland (Table 3). Since 1950, larger commercial farms have increasingly moved toward this strategy. In recent years, the percentage of farms pursuing this tactic has increased most greatly among farms that already had the highest acreage and that averaged sales greater than $500,000. In contrast, full-owners, meaning farmers who own all the land they use, have tended to be smaller farms (Cochrane 1993; Gilbert and Harris 1984; Janssen 1993).

This growing trend toward part-owner-operator coincides with the spread of mechanization following WWII. With bigger tractors, equipment, and other labor saving tools, farmers could easily take on the additional acres they needed to justify having expensive mechanical equipment and still be able to fully support a family. One consequence of this is that it has become increasingly difficult for farmers with small acreages to fully support a family from farm income. For a large operation, renting additional acreage is often a wiser economic decision than adding the debt to buy more land.

Another consequence is that this pattern has resulted in both fewer farms and farmers in ever keener competition for a declining land base. Many small farms that in the past could have been rented by a new farmer have now been absorbed into larger existing farms.

Table 3. Tenure and Size of Farm by sales.*

	Tenure in 2002			Tenure in 2007		
Gross Sales	Full 2002	Part 2002	Tenant 2002	Full 2007	Part 2007	Tenant 2007
< 25,000	78%	16%	7%	81%	14%	5%
$25-$500K	40%	49%	11%	42%	47%	11%
> 500K	40%	50%	10%	31%	59%	11%

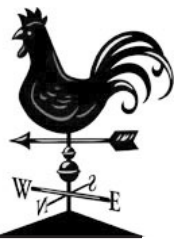
* 2002 and 2007 Census of Agriculture

2. Barriers to Land Access: Cost and Value

The current high cost of farmland is often cited as a particularly severe obstacle to acquisition. This can be particularly true in urbanized and rapidly developing areas (Higby et al. 2004:13). However, this situation is not unprecedented. Historically, land prices have presented an obstacle to acquisition. For example, during the Depression of the 1930's, land was very cheap and often sold for taxes. However, because credit was nearly impossible to obtain, it wasn't easy for beginning farmers to buy land.

This divide is still evident. For established farmers, acquiring additional land is based on the potential income that can be earned from that land, their ability to cash flow a loan, and the collateral value of their existing assets. But new farmers, particularly those with limited loan capacity and collateral, are not in this position.

Farmland value is cited as another factor limiting the entry of new farmers. In many parts of the U.S., land value is not set by its agricultural value but



rather by its potential development value for housing or commercial activity. Therefore, farmers seeking land ownership in these areas must bid higher than they would for land whose value was based strictly on the income potential from farm activities.

In other parts of the country, particularly the Midwest, farmland value is still set by returns from agriculture. Farmland value has a complex relation to rent values. For example, development land may rent for very low prices but does not offer long-term security. As indicated above, rental land in major crop farming areas is often bid out of the reach of new farmers by operating farmers who are expanding. These larger farmers spread their fixed costs over larger acreages, thus increasing their marginal profits per acre and enabling higher bids for available rental land. New farmers usually do not have the operating margin to bid as high and are thus locked out of accessing land at prices they can afford. In addition, with thinner profit margins, tenant farmers who hope to save to purchase land often see values rising faster than their ability to save.

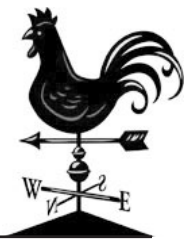
In 2007, The National Agricultural Statistics Service (NASS) reported that farmland values were dramatically on the rise, with both cropland and pastureland values reaching record highs amid regional increases from 9 to 18% (Rater 2007). In terms of farm real estate, between 2000 and 2008 national farm values *more than doubled*, from $1,090/acre to $2,350/acre (USDA NASS 2009b). One Southern region experienced a jump of 10% in the last quarter of 2007 over the prior year. In the same time period, a Midwest region saw a jump of 16% over the previous year, the largest annual increase in nearly three decades (Federal Reserve Board 2008; Oppendahl 2008). This was a consequence of the impact of ethanol on corn and other substitute grains and agricultural commodities that saw rapid price increases and increased farm profitability. We know from history that when farm profits jump, those profits become capitalized in fixed assets such as land. Farmers making profits will bid up the price of available land, either through purchase or rent, based on their expected return. “Consequently, the entrance bar to farming gets higher and higher, and fewer and fewer young people see a future in it” (Bell 2004:52).

In the dairy industry, for example, expansions of existing dairy farms make it more difficult for beginning dairy farms to finance real estate and other needed capital assets.

In other parts of the country, farmland carries a high value because its proximity to urban areas makes it appealing for development and other uses. Farming is not the best economic use, at least by conventional standards. In several Northeast states, average agricultural land values are more than five times the national average (USDA NASS 2009). It’s possible that some of this land is being held as farmland until it is put to another use, such as development. Farmland does have value to communities in the form of green spaces. However, this value also may be capitalized in the land, making it more difficult for a farmer to acquire.

In the dairy industry, for example, expansions of existing dairy farms make it more difficult for beginning dairy farms to finance real estate and other needed capital assets. High land values are “the most important factor contributing to the decline in the number of dairy farms” (Stokes 2006:369). If land values are high and existing dairy farms are bidding against each other, they will bid until the point that the returns from the existing land drop to zero. New farmers cannot compete because they often do not have the scale needed to spread fixed costs over a large number of units or the collateral value of owned land. Unfortunately for new farmers, this situation is common in most commodity production where survival depends on being the low-cost producer.

New farmers frequently have more success in producing high-value niche products rather than trying to compete with established producers in commodity products. As more consumer attention is paid to local and regional food systems, food security, and reducing food transportation costs, entering farmers frequently see opportunities in peri-urban settings that offer large proximate markets. While producers can grow high-return products in sufficient quantity on small acreages, these parcels are typically astronomically priced due to the value of alternative commercial uses. This is the situation at the urban fringe in nearly all parts of the U.S. Thus, new farmers are either in competition with either established farmers or non-agricultural developers (Higby et al. 2004).



In areas where commodity crops predominate, federal farm subsidy programs arguably exacerbate the problems associated with access to and cost of land. That is, they may increase inequality of access to land since they particularly benefit large farmland owners. This has the effect of inflating land values. As a recent report by the USDA's Economic Research Service concluded, "Since the 1930s, federal policy has exerted significant indirect influence on cropland values through capitalization of income from commodity supply-control programs. Because farmland values are closely tied to the income-generating capacity of the land, payments from federal farm programs (e.g., wheat, corn, cotton, and the Conservation Reserve Program) have had a positive effect on farmland values…but the magnitude of that effect is often debated. …Analysis shows that much of the increase in government payments accrued to landlords in the form of higher rents" (USDA ERS 2005).

I think land access will always be an issue.... For me it is more of an education on land access.... For these [immigrant] kids, they really need the resources that aren't there. Just like me as a farmer land access is virtually impossible.

—Immigrant Entrant Focus Group Participant

3. Barriers to Land Access: Structural Changes in Agriculture

A final reason that new farmers have difficulty accessing land is the changing structure of agriculture. Farming has changed considerably since the 1950s. Despite this, the primary methods of farm entry remain the same.

The primary changes in the structure of U.S. agriculture in the last fifty years are increases in the number of very large and very small farms, and a decline in the number of mid-sized farms. For the most part, farming is no longer a labor-intensive, capital-extensive sector. It has become capital-and management-intensive. This is particularly the case for large farms, many of which both own and rent farmland. Economies of scale drive increases in size on commodity farms that seek to spread fixed costs over as many acres or production units as possible. As discussed above, one result is increased competition for available land and increasingly higher land prices and rental rates

Provide farmers with a menu of options to obtain land… help them get to the point of being able to access programs that will help them access land.

—Immigrant Entrant Focus Group Participant

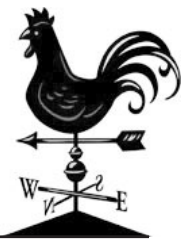
(Forster 2006). Another result is an increased concentration of land ownership and land tenancy in fewer and fewer hands (Bergland 1981; Wunderlich 1991).

The dynamics associated with the evolving structure of agriculture present serious challenges to farm entry. Consequently, this appears to be the right time to analyze public policy to determine if we need alternative policies to better enable beginning farmers to gain access to land. The traditional route of starting farming by renting and gradually buying needed assets over time is increasingly challenging due to increased competition for rental land and increased difficulty in acquiring the capital base needed to purchase and operate many farms.

B. Issues

A large share of farming resources will change hands in the next 20 to 30 years. Public policy will influence how and to whom these assets will be transferred, which, in turn, will shape U.S. agriculture for generations to come. This makes it crucial to explore and evaluate alternative policies so that policy makers, public interest groups, and interested members of the general public can assess possible pathways of acquiring tomorrow's farms and ranches. As part of the foundation for this exploration, we must understand current challenges to farmland access and tenure and evaluate alternative strategies for addressing them. The five most pressing areas of challenge are

- *Ownership*: challenges related to purchasing farms and ranches
- *Succession and transfer*: challenges related to family or non-family transfers
- *Tenancy*: challenges related to rental and landlord-tenant relations
- *Opportunity*: challenges related to tenure options and finding land
- *Socially disadvantaged populations*: challenges related to land access and transfer for certain communities of farmers



1. Ownership

From the Jeffersonian agrarian ideal through the Homestead Act of 1862, U.S. agricultural land policy has fostered ownership by the operator. The independent "yeoman farmer" was the Jeffersonian ideal; he envisioned a nation of independent farmers, owning and operating their own land to support their families. This ideal became embedded in the national culture and until the 1950s policy makers and agrarian social scientists—agricultural economists in particular—generally believed that the ideal tenure pattern was that of full-ownership, meaning that the farmer owned all the land he or she farmed. Until that time, full-owners did in fact predominate, both numerically and in terms of acres farmed. However, beginning about 1950, the pattern shifted toward part-owner-operator, meaning that the operator owned only some of the land she or he farmed and rented the balance of it.

As discussed above, the nation's farmland is concentrated among very few owners. In 1991, for example, almost 50% of all farmland was held by only 4% of farmland owners (Wunderlich 1991). Figures from the 1999 Agricultural Economics and Landownership Survey (AELOS) indicated that at the turn of the 21st century over 88% of farm landlords were non-operators (USDA NASS 1999b)] and the land they owned represented 42% of the nation's farmland (Hoppe 2006).

Land ownership trends are reflected in shifting purchasing patterns. For example, in 2003, non-farming investors made up 34% of those buying agricultural land in Iowa. This was nearly twice as many non-farming investor buyers as there were in 1989. Simultaneously, the percentage of existing farmers buying land decreased by about 20%. Significantly, over that same time span only 3% of land buyers were beginning farmers (Eggers no date).

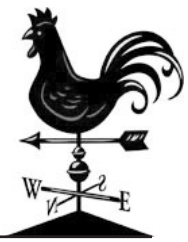
a. Financing

Financing is typically the first hurdle that prospective farmland buyers face. Obtaining commercial credit is often difficult for beginning low-equity farmers as they often lack the collateral and/or the cash flow to provide security to the lender and show they have the ability to repay a loan. Given farming's low profit, high-risk nature, commercial banks are often cautious about lending to beginning farmers. Therefore, credit sources such as the USDA Farm Service Agency and some state programs are often the primary ways new farmers obtain credit to purchase farmland.

> *Where do you get a track record [for financing] if nobody gives you a start? You know if your daddy wasn't farming on his own then you have no track record of farming. You've always farmed for somebody else. And when you don't have the financial backing, you just can't really get but so deep.*
>
> **—African-American Entrant Focus Group Participant**

In the Agriculture Credit Improvement Act of 1992, policy makers recognized and responded to the land acquisition challenges faced by entrants. Among other things, this act established targeted beginning farmer loan programs for direct and guaranteed operating and ownership loans. Since 1994, FSA has lent nearly $11 billion in approximately 121,000 loans to beginning farmers and ranchers. In Fiscal Year '07, for example, about 1,000 direct ownership and direct ownership down payment loans were obligated totaling over $132 million, compared to over 5,000 in direct operating loans. Given the nature of the higher risk lending, it is understandable that FSA has been criticized for extending credit to young farmers with insufficient training or expertise. Such criticism led to financial and production training requirements for new borrowers in the 1995 Farm Bill.

In partnership with the USDA some states operate "Aggie Bond" beginning farmer loan programs. These bonds encourage lenders to make real estate loans to beginning farmers by allowing the interest income on these loans to be exempt from federal taxes. Since the lending institutions are receiving tax savings, they can offer beginning farmers the loans with reduced interest rates. Beginning farmers can use these loans to purchase land, equipment, buildings, and livestock. Aggie Bond programs are operational in Arkansas, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Dakota, and Wisconsin. (National Council of State Agricultural Finance Programs 2008; www.stateagfinance.org). Because states bond the funds through industrial revenue bonds that have a total bond cap, funds allocated to Aggie



Bonds are limited in states with strong competition from other industrial sectors. Attempts to address this limitation have so far failed.

b. Housing

Finding appropriate housing for a farm family can be at least as big a challenge as finding farmland. For succeeding generations on family farms, the lack of a second home can create the choice of which generation must move off the farm. Where land values are high, the cost of a home can be prohibitive if it's expected to be financed by farm profits. In peri-urban communities that offer good markets for high-value farm products, modest homes cost upwards of $300,000. Furthermore, even if appropriate farmland is available, nearby housing may not be, irrespective of the cost. The impact on farm viability, not to mention family lifestyle, is significantly affected by whether the family lives on the farm or some distance away from it. In fact, many entering farmers report that availability and cost of housing is *the* factor that limits their ability to operate a viable farm or ranch.

2. Succession and Transfer

Inheritance has historically been the most common way to acquire a farm in the United States. For decades, the assumption was that only through "inheritance of or access to land through family ties," was it possible for the average farmer to have a farm (Salamon 1992).

However, this traditional succession model of farmland transfer—passing a farm from an older generation to a younger one within the same family through purchase, gift, or inheritance—accounted for only about half of farmland acquisitions in the early 1990s (Rogers and Wunderlich 1993). And in a Wisconsin study undertaken later in the decade, only 20% of beginning dairy farmers entered farming by taking over a family operation (Barham et al. 2001). It seems that the family succession pattern may be shrinking and alternative paths to farm entry may be increasing in importance (Lipton 2000). Affirming this trend, a recent Iowa study found that farm acquisition by inheritance went from 35% in 1997 to 23% in 2007, while acquisition via purchase rose by 11%. During the same period, gifting remained steady at about 3% (Duffy and Smith 2009). These numbers could indicate that, as some researchers contend, the decrease in farm entry over the last few decades has contributed to the decline of family farm-based agriculture in the U.S. (Gale 2003; Hoppe et al. 2007). Nevertheless, according to data collected by the 2002 Census of Agriculture, the vast majority of U.S. farms, regardless of farm size or legal business organization, are still family owned and operated (USDA NASS 2004). Most of these are organized as sole proprietorships rather than partnerships or other corporate entities. And while many of these farms are being sold to non-family purchasers, this is not universally true at this time, nor need it be in the future.

Not surprisingly, there is one segment of the population that is increasingly inheriting the nation's farmland—older women. By one estimate, older women will own about 75% of transferred farmland in the next two decades (Kohl 1999). In Iowa in 1997, for example, widows made up 19% of farmland owners, and the trend is increasing (Duffy and Smith 2009). It is reasonable to ask what happens to this land after these inheritors pass on.

Inheritance has historically been the most common way to acquire a farm in the United States.

Because over 400 million acres of agricultural land—or about half of all the agricultural land—is estimated to change hands during the next twenty years or so, the issues surrounding farm transfer are pressing (Kohl and White 2002). Barriers to both farm entry and farm exit are in play. If older farmers can't easily exit, their land can't become available to entering farmers.

Contemporary farmers are reluctant to pass on their land for many reasons, including problematic family dynamics, fears about the future, the legal ramifications of farmland transfer, and inadequate support services to assist them in making these business and personal transitions.

Farming differs from most other family businesses in that the senior operator tends to stay involved in the business long past normal retirement age. Because of farmers' longer life expectancies as well as the difference mechanization makes, it is common for the senior operator to remain active, continue farming independently, and remain in control

of the operation into their 70s and beyond. For example, 27% of Iowa farmers report that they do not intend to retire, ever (Baker et al. 2000). And those who report they are "semi-retired" tend to remain involved in the business. This makes it difficult for the next generation, whether within or outside the family, to meaningfully enter the business or take over the farm.

While some farmers no doubt prefer to remain in control of the operation and to continue farming into their 70s, others do not. Nonetheless, the latter group may feel reluctant to let go of the reins or the land. Such reluctance may be based in a host of concerns and issues: insecurity about the farm's future economic viability; retirement funds being tied up in the farm's assets or fear of outliving the value of the farm's assets; inability to identify appropriate successors; and difficulty finding help to formulate exit strategies (Baker 2005).

Economic fears can be one of the biggest obstacles to farm exits. Current tax laws provide an incentive for individual farm owners to hold their land without passing it on.

Economic fears can be one of the biggest obstacles to farm exits. Current tax laws provide an incentive for individual farm owners to hold their land without passing it on. Under inheritance tax laws, property—including farmland—that goes through a will receives a step-up in basis that is extremely advantageous to the new owners. This action bypasses potential capital gains taxes. For example, if a farmer purchased land for $20,000 50 years ago and the land is worth $500,000 today, there is a potential capital gain of $480,000 (500,000–20,000) if the property is sold. The tax rate would be 15–25%, with a potential tax liability of $120,000. However, if that land is distributed through a will, the property receives a "step-up in basis." That means the inheritor gets the property at a market value of $500,000. If this person were to sell the property for $500,000, there would be no capital tax liability. Obviously, this is quite an incentive not to sell the property but to hold it until death.

Capital gains tax law also provides an incentive for individual landowners not to sell farmland if it earns substantial rental income. If someone sells the property, he or she faces potential capital gains tax. If the property is not sold, no tax is owed and the property may continue to appreciate at compound rates. Rental rates in many parts of the cornbelt, for example, provide a return on property of 5 to 6% of property value. So if you are getting a fair market rate and the land continues to grow in value, there is more incentive to keep, rather than sell, the farmland.

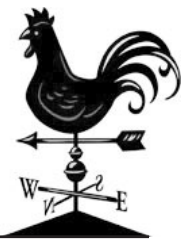
Section III, Succession, page 31, provides a more thorough examination of succession and transfer issues.

3. Tenancy

The word *tenure* means "to hold." Tenure can be thought of as a bundle of rights, privileges, and responsibilities that are legally linked to a particular piece of land and are controlled by the owner of that land. The owner has the right to assign these rights and privileges to others who lease, rent, or acquire these rights by other legal means (Duffy and Smith 2009). As used in this report, the word *tenancy* means the occupation and/or use of farmland owned by others through legal lease or rental agreements (written or verbal). Associated with both land ownership and land tenancy are social relationships and cultural norms that can vary across region and time.

Tenancy has long been recommended as a first step for beginning farmers. Many Extension economists and other observers of the farm entry process suggest that new farmers begin by renting and gradually building up farm assets before attempting to purchase land. An old saying from dairy country says that a cow can pay for the cow, the equipment, or the land. But the cow cannot pay for all three at once. The consensus is that new farmers are wise to use discretion when putting their limited resources to work if they are to survive in farming.

However, to begin farming, one must somehow gain access to land. If a new farmer doesn't inherit it, renting is a viable and sensible option. It offers a flexible, lower-cost alternative to purchasing, particularly because it helps new farmers avoid carrying a large debt. As a matter of record, farmers starting without this sort of liability are shown to be more likely to succeed in the long run. (Dodson 1996; USDA National Commission on Small Farms 1998).



Nonetheless, land ownership may still prevail as the dominant objective for most farm operators. Farm tenancy has deep—and controversial—roots in U.S. history, despite the fact that renting land is an increasingly common strategy for the nation's farmers and ranchers (USDA NASS 2004). Tenancy was a major social issue through the 1930s, particularly in the Southern states. In 1880, 36% of farms in the south, largely cotton operations, were run by tenants. By 1920, tenancy had reached 49%, and by 1930, it went above 55%. A widely held view was that: "It is an evil that, far from tending to remedy itself, is spread like a dismal infection" (Embree 1936).

Embree goes on to explain, "Southern sharecropping must not be confused with the condition of farm tenants elsewhere in the country. In many places in the North and West, where farming has a different tradition, tenants are an honorable and independent group. *The evil is not in renting land; it is in the traditions and usages* which have grown up about the share tenant group in the old South" [emphasis added].

Tenancy, as the term was used in the South, did not include renters who used the land for a fixed price in money or share of commodities. While sharecroppers typically had nothing to offer but their labor and in return pledged half of the crop to the owner, share tenants supplied at least some of their own equipment and pledged a much smaller percentage of their crop.

Tenancy must also be distinguished from serfdom. In the Middle Ages, European agricultural workers, or serfs, were legally bound to live and labor on the land owned by their lord. Although serfs were not slaves, they were not really free. They could not leave the manor and were obligated to provide physical labor as well as to pay taxes and other obligations. Serfs and their families were allowed to farm some of the land on the manor to support themselves.

While being neither serfdom nor sharecropping, tenancy in agriculture was seen by some as troublesome even outside the South. In the late 1940s, some cultural observers blamed a host of social and environmental ills in the U.S. on farm tenancy, which represented close to 40% of all land being farmed. These tenant farm families were seen as contributing less to their communities than those who owned, leading to weaker public institutions as well as to less socially and economically vibrant communities. This prompted states to pass laws that favored ownership over tenancy; some of these laws went so far as to ban long-term leases to encourage farmland owners to sell rather than rent (Higby et al. 2004:6).

Counselors, consultants, facilitators are needed to facilitate land access.

—Hispanic Entrant Focus Group Participant

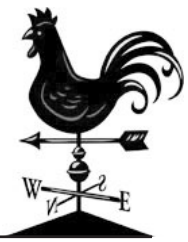
Despite these proportions of tenancy, the pattern of farm operators owning all the land they operated prevailed until the 1950s, when more farmers became renters (Gilbert and Harris 1984; Janssen 1993; Wunderlich 1993). Today many farmers are owner/renters—farmers who rent at least some of the land they operate. According to some observers, part-owners are emerging as the dominant tenure group (Janssen 1993; Gilbert and Harris 1984). However, other researchers argue that *the proportion of land being rented* is declining (Hoppe 2006; Duffy and Smith 2004).

Full and part tenancy varies by farm size and by region, with smaller farmers in the Northeast least likely to rent and larger farmers in the Midwest and the Plains most likely to rent (Gale 1992). In general, young farm entrants generally own fewer acres than they rent, acquiring more land later through either purchase or rental (Gale 1992). Instead of credit, young farmers often rely on renting land rather than purchasing. Landlords provide most of the real estate capital managed by beginning farmers (USDA National Commission on Small Farms 1998:61).

I think it's [leasing their land] going to be a problem for me and my family because we do not have a lot of knowledge about… what is important in creating a fair arrangement. So we are going to have to look for some confident advice in framing an agreement.

—Non-farming Landowner Focus Group Participant

Significantly, even renting has become hard to afford for many farm entrants. Rental land has become more competitive and is often tightly controlled by established farmers. As farmers have shifted to renting rather than owning, the cost of renting has increased. From 2004 to 2008, national average cash rents for cropland increased by nearly 12%. Cash rents for cropland increased 10%



from 2007 to 2008, largely in response to the ethanol boom (USDA NASS 2009c). The increases in cropland and pastureland rental rates are the result of producers receiving strong commodity prices and profits. As previously mentioned, as profits go up, land rent goes up. Between November 2008 and November 2009 Iowa land values dropped 2% due to a decline in the ethanol industry and the economic downturn (Duffy 2010).

With full- and part-tenancy on the rise, important questions emerge. Who are farm landlords? What is the nature of rental agreements? As discussed above, most farm landlords are not farmers. They include: retired farm operators; non-farming widow(er)s and inheriting children; individual and corporate investors and speculators; rural non-farming farm residents; organizations and second home owners.

The vast majority of landlords live within 25 miles of the rented property (USDA NASS 1999b) but the trend is toward landlords living further away from their rented land. For example, in Iowa, the percentage of farmland owners who are non-residents or who only reside part-time in the state more than tripled from 1982 (6%) to 2007 (21%) (Duffy and Smith 2009). Increases in farm tenancy and absentee landlords have significant implications for land tenure, land stewardship, and the vitality of agricultural communities.

Non-farming landlords who live far away from their land are often less well informed of farming realities and may not be emotionally invested in the well-being of the tenant or the land itself. This phenomenon has been lamented for over 50 years. As one observer wrote in 1944, "A tenant does not put forth his best efforts when he feels the insecurity that accompanies ownership by persons who not only may be remote from the locality but may have limited interest in the farm and the farm family and may not be well informed on agricultural matters" (Clark 1944). Today, this problem is all the more pervasive, as the trend is toward increasing tenancy as well as an increasing number of absentee landlords. The implications these trends pose for farm entry, farm viability, natural resource conservation, and community vitality are certainly important and must be understood if we are to maintain a vibrant farm sector. Over sixty years ago, Clark was prescient in stating, "Many well-informed owners are rendering a service to society and to their communities by providing well-developed farm units for competent tenants. There is need for many more owners of this kind" (Clark, 1944).

a. Leases and Agreements

Most of the challenges associated with renting farms and farmland have more to do with the nature of individual landlord-tenant relationships than tenancy per se. The majority of rental agreements in the U.S. are short-term—often annual, "handshake" agreements. In a recent Iowa study, approximately one-third of leases were oral (Duffy and Smith 2009). These arrangements are firmly embedded in the culture of many farming communities, where it would be a gesture of bad faith to insist on a written rental agreement. Some states have laws recognizing oral rental agreements. Many farming communities have long traditions of honorable rental agreements, rental field rotations, and conservation practices on non-owned land. One Kansan farmer farms land he's held oral leases on for 25 years or more. Those leases, he says, have never been broken. While "handshake" or oral leases indicate considerable trust, their downside is there is no documentation for tax purposes, expected farming practices, resolving disputes or settling estates down the road.

Additionally, short-term agreements can be inherently insecure for the renter. In most cases, they do not provide security over the long run and discourage investments in the land and business. It is difficult to obtain financing for

You own the land and you are leasing land and there are restrictions on the land you lease that keep you from using the same kinds of conservation measures on the land that you own. The only restriction I have is the man is 93 years old, and he doesn't want to lease to me more than a one-year lease at a time. I have been leasing about 10 years now. The reason why I can't run more cattle on that place is because it needs fence work. I told him it would be hard for me to invest $5,000 on fencing and I might have to be gone next year.

—African-American Entrant Focus Group Participant

equipment and investment in livestock without long-term rental agreements. In addition, some researchers have argued that they do not foster a land stewardship ethic (Higby et al. 2004; Soule, et al., 2000). Whether written or oral, most short-term agreements barely articulate the rights and responsibilities of farmland owners and renters, let alone transmit goals and values regarding the land. However, anecdotal evidence suggests that a renter's land stewardship reputation may be a deciding factor in determining who gets to farm available land in many areas of high competition for rented farmland (Cole and Johnson 2002).

While short-term and oral leases are not advantageous to new entrants, it's important to explore why they are so prevalent. Short-term agreements enable landowners to respond more quickly to changes in land rents such as those that occurred with the ethanol boom in 2007. Short-term leases also may reflect some landowners' fears of multi-year leases they cannot exit, particularly in cases of renters' poor farmland management or inability to pay rent. These fears reinforce some landlords' preference to rent to an established farmer rather than a beginning farmer with whom they have little or no prior relationship. On the other hand, forces within the agricultural banking industry may be working to increase the prevalence of written and longer-term leases. Anecdotal evidence indicates that more lenders are requiring copies of leases before granting operating loans and multi-year, written leases when issuing loans on expensive equipment.

b. Cash-Rent Agreements vs. Share-Leases

Whether long- or short-term, rental agreements tend to be either "cash-rent" or "share-lease." With a cash-rent agreement, the tenant pays a flat dollar amount, regardless of yield or circumstances, and with a share-lease, both owner and tenant share in an agreed-upon proportion with regard to expenses and/or income associated with the farming enterprises on the land.

Cash-rent agreements are three times more common than share-leases and are used nearly four times more than a third type of lease, a "flexible cash agreement." In keeping with their name, flexible cash agreements combine a share formula with a baseline rent (USDA NASS 1999b). In Iowa, for example, cash-rent agreements increased from about 50% of rental agreements in 1982 to 77% in 2007, while share-leases decreased from about 50% to 22% during this time period (Duffy and Smith 2009). It may be that the rise in cash-rent agreements correlates with the increase in absentee, non-farming landlords who are less interested, engaged, or willing to share risk than landlords who were also operators.

Incentives associated with the federal income tax law may also influence the increase in cash rent. When cash rent is charged, the landlord is not materially involved in production, and rental earnings are taxed as income. But with a share-lease, earnings by the landlord are subject to self-employment tax (15.65%) in addition to income tax. With identical earnings from cash-rent and share-lease agreements, landlords will incur greater tax liability with a share-lease.

...forces within the agricultural banking industry may be working to increase the prevalence of written and longer-term leases.

Finally, landlords may be moving to cash-rent agreements because they are much simpler. The landlord does not have to make any production or marketing decisions. Given the reduced risk, lower tax liability, and simpler transactions, it's understandable why cash-rent agreements are growing in appeal to landlords.

4. Opportunity

Two issues stand out in the above discussion. First, aspiring new farmers often need assistance in locating and securing farmland. Second, with the increase of older farmers who have not identified a successor, opportunities exist to find and support matches of entering and exiting farm families. New farmers with ties to farming communities may be able to connect with neighbors or through informal networks to obtain farmland. For those who do not come from farming communities, locating available and appropriate property to set up operations is the first obstacle. About half of farm operators purchased their farms from non-relatives in 1988 (U.S. Census Bureau 1993). More recent estimates are not available.

Farm linking programs that offer lists and services to help prospective farmers find farmland have been initiated in most regions of the U.S. over the last several decades. In general, these services report a large imbalance among their clients, with farm seekers greatly outnumbering farmers looking for a successor. Farm linking services also report that substantial assistance is usually required to successfully match a seeker with an exiting farmer. In many cases, this assistance is beyond the skills or resources of the staff at such services. Non-farming owners of agricultural properties—private families, conservation organizations, and municipalities, for example—appear to need a great deal of information and support when planning for the active use of their properties. Additionally, there is a shortage of people trained in farm succession issues who are proficient communicators with both farm seekers and farmland owners.

Farm entrants also need support. Existing programs for beginning farmers often offer instruction in areas that meet FSA training requirements, such as business planning and crop production fundamentals. However, few of these programs address land acquisition issues or lease drafting and negotiation. Some beginning farmer and farm linking programs help entrants prepare to acquire land by discussing options and giving information they need to make sound choices. But too often, land acquisition is not adequately addressed in the planning process. This results in poor, and sometimes very costly, decisions.

Young farmers taking over a family operation often need training and support, too. Frequently, they lack training in operating a business, and some may also need help with farm production issues. Most importantly, in many cases, they would benefit from assistance in developing a plan for a successful transition.

5. Socially Disadvantaged Farmers

Problems of farm entry are magnified for socially disadvantaged (SDA, the acronym used by USDA) farmers. These farmers are defined as those who have been subjected to racial, ethnic, or gender prejudice because of identity as a member of the group in question, without regard to individual qualities. SDA groups traditionally include women, African-Americans, American Indians, Alaskan Natives, Hispanics, Asian Americans, and Pacific Islanders (Farm Service Agency 2006).

The FarmLASTS Project also recognizes other groups as having the same sorts of challenges that more recognized SDA groups experience. Farm workers, for example, are a disadvantaged group that includes many members who want to establish their own farm operations, and some farm entrants face discrimination based on their sexual identity, although there is scant research in this area. In order to better understand the unique challenges faced by these groups, the FarmLASTS Project conducted focus groups with African-American entrants, African-American landowners, immigrant entrants women entrants, women landowners, and Hispanic entrants.

In some respects, the profiles of SDA farmers differ from the non-SDA farming population. For example, black farmers tend to be older, with an average age of over 60, compared to an average age of 57 for all farmers (USDA NASS 2009a). However, when it comes to land ownership, although the absolute number of African-American, Hispanic, Asian, and Native American owners is much smaller than the number of white farmers, the proportion of full-owners, part-owners, and full-tenants is approximately the same in each category. Across these demographics, full-owners constitute about two-thirds of all farmers, with tenants comprising around 7% to 9%. Asian operators are the only exception; their tenancy rate is about 14% to 18% (USDA NASS 2009).

Evidence indicates that historically, SDA groups have had problems accessing farmland, obtaining credit, and being allowed to participate in government programs (Kleiner and Green 2007). Federal agricultural policies display a history of discrimination that has resulted in minority farmers experiencing much greater difficulty obtaining access to federal credit and being able to participate in other public programs. (See Case Study: Dodson)

In 1990, the Congressional Committee on Government Operations stated that FMHA was “one of the key causes of the drastic decline in black farm ownership” (Civil Rights Action Team 1997:2). In 1997, black farmers filed Pigford v. Glickman, a class action lawsuit against the USDA, alleging widespread racial discrimination that resulted in the loss of farming operations and farmland. In 1999, this lawsuit was settled. It was followed by Keepseagle v. Veneman (1999), by American Indian farmers and ranchers, Love v. Veneman (2000) by women farm operators, and Garcia v. Veneman (2001) on behalf of Hispanic American farmers (Brewer 2003; Geisler and Gonzales 2001; Harris 2003). Each

of these class actions alleged that assistance, in the form of government loans, is not offered to minorities and women on the same terms it is offered to white males, if it is offered at all.

The special problems encountered by socially disadvantaged farmers have not been adequately attended to, even when "solutions" have been legal directives. According to the Rural Coalition/Coalición Rural (2005; 2007), two shortcomings can explain this failure. The first occurs when civil rights remedies in various forms are not structured to be strong enough to eliminate these problems. The second occurs when well-constructed remedies are put in place but not administered or adhered to correctly. The Civil Rights Action Team report made extensive recommendations for improving the USDA's handling of farmers' civil rights, from diversifying the workforce to introducing accountability and improving outreach. Many of these recommendations had yet to be enacted five years after the initial lawsuits (U.S. Commission on Civil Rights 2003).

Heir property ownership is often the precursor to land loss in farming (and other rural) communities.

A problem that has been articulated by the rural African-American community concerns heir property. "When a person dies without a will or other type of estate plan, state law controls who can rightfully inherit and how much they can inherit. … If the deceased owned land before death, the legally recognized rightful heirs will each inherit an undivided, fractional ownership interest in the land. Their interests are fractional because each co-owner has an individual, partial interest in the whole. Their interests are undivided because the heirs do not have separate deeds to their ownership interest. In fact, no heir can assume that his/her interest correlates to a specific area of the land until AFTER the land has been subdivided" (Thomas, et al., 2004). The size of each heir's fractional ownership interest depends on several factors including how many generations removed is an heir from the deceased; and how many heirs can rightfully take their inheritance at a specific point in time.

Heir property ownership is often the precursor to land loss in farming (and other rural) communities. With each passing generation of heir property owners who die without a will or other estate plan, a new generation of heirs inherits ownership of the land. Typically, each successive generation is larger than the previous one and more removed from the land. As a result, the next generation of landowners' ownership interests are smaller, yet the number of interest holders has increased. Numerous co-owners can make it difficult, if not impossible, for the land to be properly managed by a farmer or other land user. Lack of a land management plan and/or improper implementation of a land management plan can lead to land loss. In some cases, the land is being managed, but this responsibility rests in the hands of one heir, or a small group of heirs, with the other heirs enjoying an unearned benefit. Those few—such as a family member who wants to start or continue farming on the property—can face many obstacles to properly managing it. Without specific authorization by the other heirs, many land use decisions (e.g., farm uses, harvesting timber, leasing, building a structure on the land, etc.) can be made only by unanimous consent.

C. Successful and New Models and Approaches

Below are successful and new models and approaches to assist farm entrants to get onto farms and ranches. This material is presented in the same order as the issues discussed above: 1) ownership; 2) succession; 3) tenancy; 4) opportunity; and 5) SDA populations. The models may or may not have been evaluated, and some of the ideas need further investigation and discussion.

1. Ownership (financing and affordability)

Improved federal beginning farmer and rancher loan programs. The USDA Farm Service Agency's (FSA) suite of beginning farmer loan programs were improved upon in the 2008 Farm Bill. The loan limit was raised from $200,000 to $300,000, making the program more realistic and attractive. Another important improvement was that any farm experience (e.g., farm labor), not simply "participation in the operation of a farm," must be considered in meeting the three-year experience requirement.

FSA's down payment loan program provides loans to beginning farmers and ranchers for down payments on farm or ranch land. Among the improvements in the recent Farm

Bill are the inclusion of SDA operators, the increase in maximum loan duration from 15 to 20 years, and reducing the borrower down payment requirement from 10% to 5%.

Installment land contract. A land contract is a purchase and sale agreement with an extended performance term, wherein the buyer has possession of the property while paying the seller in installments. In this way, the seller finances the purchase, and can set friendly terms. They are fairly common in the Midwest, where parents can self-finance the next generation and receive income and certain tax benefits. (See Case Study: Smith-Bennett and Rose)

Contract loan guarantee program. A pilot program in the 2002 Farm Bill, the contract loan guarantee program was made permanent and expanded to all states as well as to SDA operators in the 2008 Farm Bill. The federal government guarantees contract sales by private sellers on sales up to $500,000 on loans of up to ten years. It remains to be seen how successful this rollout will be.

Individual development accounts. IDAs have been used in non-farming sectors, with over 500 IDA initiatives across the country and legislation in 25 states. With an IDA program a government entity matches individual savings toward the purchase of a home, for college, or to start a business. In agriculture, California Farm Link pioneered the concept by using funds to match low-equity beginning farmers' savings toward the acquisition of farm property or other capital assets. A new IDA pilot program is authorized, but not appropriated, in the 2008 Farm Bill.

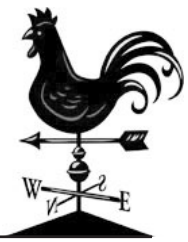
Farm Credit System's Young, Beginning and Small Farmer program has loaned nearly $15 billion to young and beginning farmers. Farm Credit East's innovative program, Farm Start (https://www.farmcrediteast.com/en/Products/FarmStart.aspx), offers qualifying beginning farmers loans for working capital, without collateral. This means these farmers can start or grow their operation without having to own real estate or other substantial assets. This should be an attractive alternative for start-ups on rented land.

State/local financing. Iowa's Woodbury County won a national sustainable communities award from the National Association of Counties in 2007 for its pioneering "*Organic Homestead Program*." The program has a $2 million revolving loan fund for land purchase in the county by organic farmers with no payments for the first three years and no interest on the remainder of the loan. The program also offers free building lots and building assistance by Habitat for Humanity. (http://web.mac.com/marqusee/Woodbury_Organics/Letter_files/NACo%20Awards_Woodbury.pdf)

In Maryland, the state government authorized a program to help beginning farmers acquire land. Though not yet funded, this program authorizes the Maryland Agricultural and Resource-Based Industry Development Corporation (MARBIDCO; www.marbidco.org) to work with commercial lenders to help qualified beginning or young farmers purchase farmland for sustainable agricultural uses. The program employs a financing tool called an "easement purchase option" to help farmers obtain mortgage financing. Using this tool, MARBIDCO helps a prospective farmer meet the equity requirements of a financial lender by buying the development rights of the land that farmer is purchasing at the time of settlement. Such a transaction enables that farmer to purchase land that he/she would not otherwise be able to afford.

Private investment. The Land Connection is an LLC that brings together investors to purchase farmland threatened with development, transition it from conventional to organic over several years, and then resell the land to new organic farmers. In a new pilot program, New Spirit Ventures LLC seeks to link beginning farmers with socially motivated investors who will purchase farmland and offer up to 15-year renewable leases with an option to buy the property at fair market value if the investor decides to sell it. An easement may be placed on the land to prevent non-farm development and also to lower the sale price. (See Case Study: New Spirit Ventures) An entrepreneurial North Carolina farmer set up a Chapter S corporation and attracted "patient" investors to capitalize his farm purchase. As his farm business became successful, he bought all the shares and became the sole owner of the farm. (A. Hitt, personal conversation 2009). These are examples of equity vs. debt financing.

Easements. According to a study by the American Farmland Trust and the Agricultural Issues Center of The University of California, Davis, over 1.1 million acres of farm and ranchland are under agricultural easements (Sokolow 2006). Most easement programs are operated by county or other local governments, but some are statewide programs (i.e. Connecticut, Delaware, Massachusetts, Vermont) and others are private programs run by local or statewide nonprofit conservation land trusts. These programs purchase or accept donated agricultural easements, also known as restrictions that, at minimum, remove the development



rights from the property, thereby protecting it in perpetuity from development. The federal Farmland Protection Program offers matching funds to states with purchase of development rights (PDR) programs, although states without such programs are not able to leverage these federal dollars. PDR programs are very successful at preserving farmland and are attractive to communities. They are also expensive, requiring state funding, which is typically bonded, or considerable fundraising by private groups.

The theory behind such easements was that once the right to develop was removed, the restricted property would have a lower market value and therefore be more affordable to farmers. It can work this way and in those cases, the property is indeed more affordable. In practice, however, the market value of restricted properties has frequently escalated to a higher, "estate" value because they are attractive as estates for well-to-do ex-urbanites and others while they also enjoy the tax benefits of owning "agricultural land." Furthermore, removing the development rights while preserving the farm from development did not guarantee that the farm would be farmed nor that it would be transferred to another farmer when it was time to sell. Another caution is that these programs preserve farmland but not necessarily farmers, because larger farmers may use the program to consolidate additional land. Therefore, the farm property is not necessarily more accessible to an entering farm family. These programs need to clearly define their objectives related to farmland and beginning farmers.

Some conservation land trusts play a key role in making farmland available and affordable. While a 148% increase over five years in the number of conserved acres was reported by the Land Trust Alliance, the vast majority of these lands are not agricultural. A few land trusts devoted to agricultural lands stand out, including: Vermont Land Trust; Maine Farmland Trust; Connecticut Farmland Trust; Colorado Cattlemen's Agricultural Land Trust; Marin Agricultural Land Trust; Franklin (County, MA) Land Trust; and Oregon Sustainable Agriculture Land Trust. These land trusts use the same instruments of land protection but work specifically to identify threatened agricultural properties, purchase or accept easements, recruit and place farmers, monitor agricultural activity, and promote agriculture.

Most PDR programs now have the dual goals of land preservation and farm opportunity. That is, they enable farm acquisition and viable farm operations. The loopholes described above have been addressed by several state (e.g., Massachusetts) and local programs.

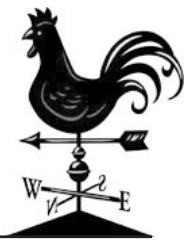
Mimicking such innovative groups as the Vermont Land Trust, Equity Trust, and the E.F. Schumacher Society, many easement programs now include so-called perpetual affordability clauses in their easements. These provide that when the farm is resold, it must be sold at its agricultural, rather than an inflated, value. Additionally, it must be sold to a farmer who will farm the land. If none can be found, the easement-holding entity exercises its option to purchase the property at agricultural value (OPAV) and then find and sell to a farmer. Some easements also contain an "active agriculture clause" that requires that the land be actively farmed. The Maine Farmland Trust's "buy-protect-sell" approach seeks farm properties to purchase outright, place a restriction on it, and resell at the restricted value to a beginning or other farmer.

Affordable farm housing. Easements protect land and occasionally include agricultural structures but rarely include dwellings for farm families. Often they restrict additional dwellings and the ways in which current dwellings can be used. In areas where farmland affordability is an issue, housing affordability is often a major issue, as well. So even if a farmer can afford to purchase restricted farmland, she/he still has the formidable problem of an affordable place to live on or near the farm. The town of Dartmouth, Massachusetts, has attempted to address this with an innovative strategy to link restricted farmland with adjacent housing. A deed rider on a residential parcel

Some conservation land trusts play a key role in making farmland available and affordable.

stipulates that the parcel is bound by common ownership to an adjoining protected agricultural parcel. Furthermore, upon resale, the price of the residence is limited by an affordability formula, and the occupant must be connected with the agricultural activities of the linked parcel.

Housing affordability is creatively addressed by community land trusts (CLT). Historically, CLTs were formed to address the housing needs of low-income residents. Typically in urban, non-farm settings, a CLT will build or



purchase dwellings or own land upon which residents may build and own homes. In either case, a covenant is attached that places an affordability cap that perpetually limits the resale value of the house. (See below, under ground leases, for more detail on this model.) As noted above, the Woodbury County (IA) Organic Homestead program offers free building lots and building assistance by Habitat for Humanity for new farmers.

2. Succession and Transfer

Successful transfer strategies. University Extension and other programs help exiting farm operators with succession and estate planning. Programs that address the challenges from the junior generation's point of view are likely to emphasize gradual transfer of assets, clear and timely transfer of management and responsibility, and equitable rather than equal inheritance—all of which can benefit the junior operator. Most succession planning advisors encourage the junior generation to leave the farm for a while to test whether they are really motivated to return to the farm and to learn about farming at school and/or on other farms. Some Extension programs directly counsel the younger generation about how to get the planning process going and how to effectively participate, given the reality that it is often the juniors who are more motivated than the seniors to get planning underway. From the entrants' point of view, family farm transfer can be an affordable and lower-risk strategy and often the only way to acquire a farm or ranch. But it can also be fraught with complexities and anguish and not necessarily result in a viable opportunity for the next generation. This is especially so if it is not coordinated with a business plan to assure that the farm is economically viable. (See Case Study: Smith-Bennett and Rose) For a more detailed discussion of farm succession issues, see Section III, Succession, of this report beginning on page 31.

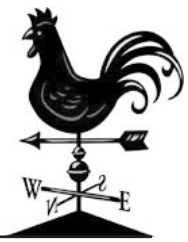
Linking/matching/finding. Farm linking programs began in the late 1990s with the Center for Rural Affairs' service to find and match farm seekers with retiring farmers who had no farming heirs. Currently the International Farm Transition Network (www.farmtransition.org), a nonprofit organization that provides support for linking programs, lists 20 programs (International Farm Transition Network 2007). Some are based within land grant institutions, some are based in state agriculture departments, and others are managed by non-profit organizations. They function in different ways and offer a variety of ancillary services such as business or estate planning. Some simply list properties, while others proactively attempt to match specific seekers with specific properties and to "seal the deal." While the need is great and the programs are popular, the matching function is very labor intensive, the programs are hard to sustain, and "success" numbers are reportedly low.

3. Tenancy

Full- or part-tenancy has been a cornerstone in the structure of U.S. agriculture since the beginning. Not only is tenancy likely to increase, but at its best, it can be an advantage, particularly to farm entrants. Throughout U.S. history, farmers have often begun as tenants, gradually building assets to be able to afford farmland. This is no different today as high land prices often forbid immediate land purchase except for those fortunate enough to have the financial backing. Successful and new approaches to tenancy address both lease types and terms and landlord-tenant relations.

Written leases. Despite a strong tradition of oral leases, most agriculture advisors recommend written leases. At minimum, written leases specify the property, the terms, the payment, and articulate rights and responsibilities of both parties. Written leases provide the necessary documentation as well as clarity should disputes arise down the road. There are a number of websites and other resources that contain sample written leases and recommendations on lease language. See, for example, http://www.extension.iastate.edu/Publications/FM1538.pdf; http://agecon.uwyo.edu/RiskMgt/legalrisk/CSorCSCASHRENTALArrangforFarmPDF.PDF; or http://www.landforgood.org/land_leasing_materials.html

Longer lease terms. The longer the lease term, the more security for the tenant. Alternatives to short-term, often annual, leases are: 1) longer term leases; 2) rolling-term leases; and 3) an initial short-term lease with an option to renew for a longer period. These last two agreements help to test a landlord-tenant relationship before moving to longer-term commitments. Longer leases allow farmers to introduce long-term planning into their operation and give them time to benefit from stewardship and farm infrastructure investments. "For the tenant, long-term leases can mimic a number of the environmental, social, and economic benefits of outright ownership" (Higby et al. 2004:58). Communities gain because farm families invest time and energy in them (Higby et al. 2004). A longer lease can



also improve banks' willingness to provide loans to the tenant. A long-term lease can be anywhere from 5 to 99 years. It can be inheritable and tied to the land so that a transfer of title does not jeopardize the tenant's security. It can include farm structures and other improvements. It can, and must, provide for clear responsibility for maintenance, repairs, and improvements. For example, Krusen Grass Farm in Wisconsin has a long-term lease from a land trust. (See Case Studies: Krusenbaum and Cuyahoga.)

Farmers need to be aware that long-term leases are rare, not because they are new, but because of perceived risks to the farmland owners. Farmland owners may need to be educated and convinced about the advantages of long-term leases for their situations.

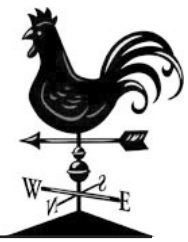
Lease with option to purchase. A lease with an option to purchase offers considerable security to a tenant. The lease-to-purchase approach to property ownership has been used in cities to help the working poor afford homes. However, it can be transferred to farm situations. For example, a religious order in Massachusetts negotiated a three-year lease with options for renewal or purchase at the end of the initial term. The approach can be successful with farmland only if the farmer can generate enough income to service the eventual mortgage debt. The Wisconsin Farmland Conservancy tried this approach but found that people who had already financed acquisition of livestock and equipment had difficulty qualifying for the additional mortgage loan (K. White, reviewer comment). Ideally, this strategy should enable a new farmer to have use of the property at a rental rate while paying off equipment and livestock, and the option to purchase should come into play when the farmer can qualify for the mortgage, not before.

Share-leasing. For the reasons described above, share-leases and flexible cash leases are more beneficial to tenants than straight cash rentals. A crop-share lease can save the tenant a substantial amount up front. Therefore, share leases can substantially lower the financial burden of gaining access to land. "Flexible cash rent reduces some of the risk to the tenant of a bad year and rewards the landowner in good years" (Higby et al. 2004:40). Share leasing has fallen out of favor, perhaps because fewer landlords are physically and emotionally connected to their properties, so they are less likely to want to take on any risk or investment. These leases are also more complicated to calculate and negotiate. Other factors include the favorable taxation rates of having rental income. In addition, share leasing that involves sharing expenses and crop production requires considerable trust on the part of the landlord. Landlords have every reason to question if the tenant is accurately reporting all expenses and all the income. If the renter is someone new, it's difficult for the landowner to establish trust without having some past connection. Cash rent removes that risk from the formula.

Sharemilking. Sharemilking is a crop-share model used in dairy farming, but the principle can be applied to other situations. Sharemilking is an innovative strategy that may help beginning dairy farmers gain experience while earning equity toward farm purchase. It has played a critical part in the New Zealand dairy industry, helping both beginning and retiring farmers. In a sharemilking agreement, beginning farmers earn income from a portion of milk and heifer sales in exchange for managing the herd. When the sharemilking contract is over, the beginning farmer has both cows and cash with which to move onto his or her own farm or to purchase the sharemilk farm. This arrangement provides the retiring farmer a share of the income from milk sales while he is bowing out of the operation and also gives the entrant supervised management experience. Thus, where dairy farms generate enough income to support both an owning family and a sharemilker family, this model could help entrants acquire a start in farming (Stevenson and O'Harrow 1999; Stevenson et al. 1996).

Sharemilking is a production arrangement that does not remove the seeker from land value fluctuations. Problems have recently arisen in the New Zealand system because land values are increasing while dairy cow values are not. Also, larger farms are buying up smaller farms. High land values thus put pressure on sharemilking arrangements because beginning farmers must have more cows to purchase a farm, yet there are fewer farms. As a result, beginning farmers must spend more time as sharemilkers. Rising land values are present in American agriculture as well and will need to be addressed for sharemilking to be successful here (Stevenson and O'Harrow 1999). (See case studies: Guralski/Martin and Krusenbaum)

Ground lease. In an agricultural ground lease, the tenant rents the land and builds or purchases and owns the improvements on it. A ground lease not only conveys rights to land, but can also include restrictions such as requiring owner-occupancy or limited equity resale. For example, a farmer might have a 99-year renewable lease for 30 acres of farmland. She purchases the farmhouse on the land. If she decides to move on, the lease



terminates and she sells her house to the next tenant at a price determined by a formula in the lease that limits speculative gain. Equity Trust (www.equitytrust.org) and the E.F. Schumacher Society (www.smallisbeautiful.org) have successfully completed farm projects using the ground lease model. In one example, at Indian Line Farm in Massachusetts (http://www.indianlinefarm.com). The Nature Conservancy holds an easement and the Community Land Trust of the Southern Berkshires owns the land. The farming couple has a 99-year lease on the land and they own the house and barns. Similar models have been implemented at Live Power Community Farm in Covelo, California (http://www.livepower.org/), and Caretaker Farm in Williamstown, MA (http://www.caretakerfarm.org).

Agricultural use rights. Another approach to non-ownership tenure is the agricultural use rights model. This bestows ownership of the right to use the property for farming for as long as the person owns that right. In this model, the farmer can also own his or her improvements. Also called transfer of farming rights, it is a deed restriction that enables the sale (or gift) of the right to farm a property in perpetuity. This model is in its infancy, but according to investigations by California Farm Link, "there is no reason it could not be done." (Schwartz 2008). One such agreement has been executed in Sonoma County, California.

4. Opportunity

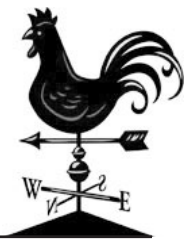
Absentee/non-farming landowners. Given the growing proportion of non-farming landlords, some of whom are absentee, it is surprising that so little attention is paid to who they are, what their needs are, and how to work with them. As stated above, non-farming landlords are a very diverse demographic. A recreational landowner in Montana will have different information needs than a homeowner on 20 acres of potential pasture in the Hudson Valley of New York or a widow in Illinois who lives in town and rents 640 acres of cropland to 5 different tenants. In addition to private non-farming landowners, there are public and institutional entities that hold and sometimes lease agricultural land. This diverse farm landlord demographic offers many fruitful opportunities and models and is expected to be the predominant type of farmland owner for the near future.

Women landlords. Agricultural Economist David Kohl coined the term "granny landlord" to describe older, typically widowed landlords. Not everyone finds the label endearing, but there is widespread recognition that this population has unique needs and attitudes. Men tend to marry younger women and tend to have shorter lives leading to the statistical fact that farmwomen often face a number of years of widowhood and end up as sole proprietors of farmland. For example, the Women, Land and Legacy Project (WLL) (www.womenlandandlegacy.com/index.html) conducted listening sessions with over 800 women across Iowa, including farmers, farm partners, and inheritors. They found that women inheritors include widows but also "women who have inherited from parents and work in sibling networks to manage the land." These women have a strong land ethic and community values. Land ownership carries with it a sense of pride and legacy. They want information in small, interactive settings designed for women. WLL offers small group dialogues and technical support to women landowners, including landlords. Land For Good's Women and Farm Transfer Project, funded by USDA/FSA, drew from the experiences of WLL to design a customized manual, workshops, and technical assistance for women landlords as well as wives preparing to exit farming. The Women's Agricultural Networks (WagN) in PA, VT, ME, VT and CT address a broad range of issues faced by women farmers. (See, for example, http://www.uvm.edu/wagn/.)

For our [public] land we issue a request for proposals… an elaborate process. We encourage people to take a longer term (up to 60 years) with us because that is the only way they are going to get a shot at equity in the property.

—Public Landholder Focus Group Participant

Conservation buyers and investors. A conservation buyer is someone who purchases conserved land—property that has a conservation or agricultural restriction on it which eliminates the option to develop the property. The restriction may include other provisions as well. In the case of agriculture, the buyer may then make the property available for farming by leasing it. Typically, a conservation organization acquires a property, places and holds the restriction and then resells the property. (See, for example, The Nature



Conservancy http://www.nature.org/aboutus/howwework/conservationbuyer/) New Spirit Ventures (http://www.leopold.iastate.edu/news/events/NewSpiritVentures.pdf) helps farmers link up with socially motivated investors who will purchase farmland and lease it to the farmer on a long-term (up to fifteen-year), renewable lease. The lease will include an option to buy at a fair market value if the investor ever wants to sell the land. A conservation easement (restriction) may also be put on the land to prevent non-farm development. (See Case Study: New Spirit Ventures)

Federal land. The Cuyahoga Valley Countryside Initiative in Ohio competitively recruits private individuals to lease and manage historic farm properties from the National Park Service. Working closely with the NPS and Countryside Conservancy staff, lessees have invested several hundred thousand dollars of private funds into capital improvements and sustainable farm operations that are conducted in a manner consistent with resource stewardship in a National Park setting. This level of commitment is possible because of 60-year leases, which give lessees the incentive to make long-term land stewardship and capital improvements. Besides the value of private investment, the NPS receives fair market value rent on both the residence and farm income from these properties, turning public liabilities into revenue-generating assets, while at the same time preserving an important cultural landscape in a creative, cost-effective manner. (For details see Case Study: Cuyahoga)

In the western 11 states, nearly three-quarters of the publicly owned rangeland is leased from the BLM and Forest Service to private operators for grazing. Grazing on Federal lands encompasses a unique set of issues that are beyond the scope of the current investigation.

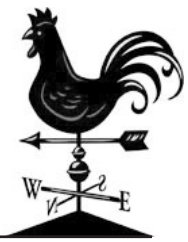
State-owned land. Many states make public lands available for multi–year leases or licenses. These parcels often have historic or current connections to mental health or correctional facilities. Environmental conservation and agriculture departments also control farmable properties. For example, Washington State's Department of Natural Resources (DNR) manages more than one million acres of state trust lands under lease or range permits for agriculture and grazing production. Leases are awarded to applicants who will optimize the short-term and long-term return to trusts, based on a market value assessment that considers such factors as crop options, soil type, and water availability. Agricultural rents are collected as cash per acre, per unit, a percentage of the crop, or a combination. Grazing leases or permits are evaluated for carrying capacity and charge on Animal Unit per Month rates. These rates may be adjusted to the current market rate periodically throughout the term of the lease. (See Case Study: Brake)

In Massachusetts, the state Department of Agricultural Resources offers five-year licenses for state agricultural land. Because a license is not a conveyance of property, it sidesteps the legal and administrative complications of a real estate transaction. While this is a positive strategy, licenses may not allow for longer terms, such as for more than five years. In a unique situation, the New England Small Farm Institute (NESFI; www.smallfarm.org) has a 30-year lease from the Commonwealth of Massachusetts for 400 acres of farm and forestland that was formerly an institutional farm. NESFI is able to offer several long-term subleases to start-up farmers as a consequence of this arrangement.

Hawaii's unique agriculture parks initiative makes state-owned agricultural land available to lessees in 10 "ag parks." Each is subdivided into between 10 and 60 parcels of 20 acres or less. The state provides paved roads, water, and electricity to each leasehold. Lease terms run from 15 to 55 years. One farmer or farm labor dwelling may be constructed on the lot. This program has been in existence since the early 1980s; with over 200 leaseholds, there are only a handful of lots now available. (See http://hawaii.gov/hdoa/arm/arm_agparks.)

County and local public land. The Boulder County Parks and Open Space Department acquires agricultural properties and makes them available for farming through a formal application process. The typical lease term is three years. A certain amount of water shares go with the lease. Rental payments can be cash or crop or livestock share. A farm plan is required. http://www.bouldercounty.org/openspace/resources/agriculture/ag_leases.htm.

In Rockland County, NY, the Rockland Farm Alliance (RFA) is a broad based community coalition of farmers, community groups and activists, local and county officials and interested citizens. RFA is supported by the Rockland County Soil and Water Conservation District and administered by the area RC&D Council. Among RFA's goals are to maintain and enhance farm viability and profitability in Rockland County and increase amount of land in production within the county. They seek to "return appropriate land parcels to active production" including land owned by the County.



In eastern Massachusetts, a religious order's top priorities for their 20-acre urban fringe agricultural property were to protect it from development…

Institutional/educational/religious and other nonprofits. In addition to private individual and family land and publicly held land, there is a third category—land held by educational institutions, churches and religious orders, land conservation, and other groups. Not only do these entities hold land that is good for farming, they tend to have values and objectives that are in harmony with the goal of providing attractive tenure for farmers and ranchers.

Genesis Farm is a 300-member CSA farm in New Jersey that leases 35 acres from the Dominican Sisters. In Westfield, MA, the Sisters of Providence lease land to a non-profit community organization that in turn leases to start-up minority farmers and gardeners.

In eastern Massachusetts, a religious order's top priorities for their 20-acre urban fringe agricultural property were to protect it from development, keep it in active agriculture, and offer secure and affordable tenure to a beginning farmer. Development rights will be transferred to a conservation organization. A three-year lease provides an option to renew or purchase. Provisions in a separate residential lease for the farmhouse assure that the house will be conveyed along with the land at an affordable price. The sisters who live on the property share in the farm's bounty. (For an example of challenges associated with leases on religious lands, see Case Study: Monk)

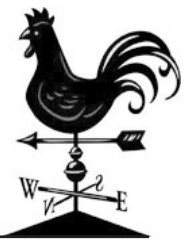
Land conservation organizations such as The Trustees of Reservations, The Nature Conservancy, and Vermont Land Trust purchase farm properties and lease them out through long-term or ground leases or with lease-to-own options. As an example, when farming parents died and their daughter, who wished to continue farming, could not afford to buy out her siblings, Equity Trust and three other nonprofit organizations purchased their NH farm. As long as she and/or her brother continue to actively farm the property, she retains a "life estate" for the farm. Equity Trust (www.equitytrust.org) will locate new farmers if the siblings cease farming, transferring the long-term lease to the land and ownership of improvements to the new farmers (Equity Trust 2006).

Intentional communities and farm-focused housing developments. These exciting models are becoming more numerous, especially as citizens become more interested in local, seasonal, and safe food. On the private side, there are several very innovative experiments in farmland tenure. Prairie Crossing is a residential subdivision with nearly 400 housing units 40 miles north of Chicago. (www.prairiecrossing.com) Designed from the start as a conservation development, it features clustered homes and 154 acres reserved for organic farming activities. Prairie Crossing is operated as a common-interest housing development with much of the open space owned by the residents through a Homeowner's Association. It supports Sandhill Organics, which is an organic family farm enterprise on approximately 40 acres. Sandhill Organics rents its farmland, and some farm structures, from the Prairie Holdings Corporation (www.sandhillorganics.com).

"Agriburbia" is a trademarked development concept in which each mixed-use "campus" is "centered on an agrarian concept where traditional suburban landscaping and open space is replaced with orchards, vineyards, and other perennial crops for the benefit of the neighborhood and surrounding communities. A limited amount of active recreation area is provided. The balance of the open space is designed as productive organic agricultural landscape" (http://www.agriburbia.com/). The farmland in these developments is to be owned and managed by a homeowner's association or similar entity. Private farm contracts (leases) will be awarded to one or more growers. One such development is underway in Colorado.

The Agritopia Project is a planned community of commercial and residential uses, designed around an urban farm. The project is under construction in Gilbert, Arizona, on a family-owned farm. "The farm is established for three purposes: to produce abundant crops and agricultural products, to be beautiful open space, and to be an educational resource" (http://www.agritopia.com/index.html). The farm is already functioning, complete with a farmstand for the surrounding residents. A total of 460 lots are planned.

At Angelic Organics, a Chicago-area CSA farm, the members formed a limited liability company with



member-investors buying the land (www.angelicorganics.com). The land is owned by the LLC and leased to Angelic Organics for 15 years. And finally, Serenbe is a 900-acre residential development in Georgia. It includes homes, restaurants, stores, and a 25-acre organic CSA farm. (www.serenbefarms.com)

Landowner incentives. Iowa and Nebraska offer tax credits to landowners who rent their farmland, equipment, livestock, and/or facilities to beginning farmers. After renting the property to a beginning farmer for three years, the owner is eligible for the tax credit (Kilde 2002). Every state has a *current use* provision in its tax code, allowing a lower tax rate for properties in active farming use. It is financially advantageous for the landowner to maintain some kind of farming enterprise on the property, and if they don't farm, they need someone else to do it. This tax credit can motivate landowners to maintain a farming presence on their land, and in fact, it can be so advantageous that some landowners don't charge any rent.

Landowner education. The Glynwood Center (www.glynwood.org) launched a program to work specifically with non-farming owners of agriculturally capable property in the Hudson Valley (NY). The center provides direct landowner assistance and workshops that introduce landowners and young farmers to one another. AGREN's Absentee Landowner Information Center (www.agren-inc.com) provides online information to agricultural landowners specifically about conservation planning. Land For Good (NH; www.landforgood.org) provides planning services to non-farming landowner clients who wish to see their lands brought into active farming uses.

Linking programs. As described above, linking programs are popular but challenging to sustain. (See www.farmtransition.org.) Nonetheless, the support and information offered to all parties is valuable. There is definitely an urgent call for effective ways for seekers to find available properties and for owners of agricultural properties to recruit competent operators. Some land trusts (e.g. Columbia Land Conservation Trust), counties (e.g., King County, WA) and organizations (e.g., New Entry Sustainable Farming Project, MA) have or are developing localized listing or linking services. As these initiatives are rolled out or evaluated, it will be useful to distinguish among related but distinct functions—listing, linking, and matching.

US Farm Lease is an online company (www.usfarmlease.com) that touts itself as "Your Farmland Leasing Network." According to its website, U.S. Farm Lease helps landowners and farm operators find each other. Landowners list their own property and solicit and screen qualified lease candidates. Operators submit bids for rental properties.

Educating/coaching/facilitating. A few non-profit organizations offer programming specifically focused on preparing entrants to acquire land. California Farm Link, the New Entry Sustainable Farming Project, ALBA, Farm Beginnings, and Land For Good help new farmers consider their options, obtain financing, and draw up leases, in addition to finding land. These efforts are an important complement to production and business training for farm start-ups. The University of California/Davis offers an online course on farm leasing (http://extension.ucdavis.edu/unit/agriculture_and_food_science/) as does Iowa State University (http://www.extension.iastate.edu/ames/introductions/FLAintro.html). Land For Good offers an online tutorial about leasing, along with online resources and technical assistance. The Beginning Farmer Center at Iowa State University offers a four-day "Ag Link" seminar for undergraduate juniors and seniors and their families (http://www.extension.iastate.edu/bfc/programs.html#Ag%20Link).

Business Planning. As mentioned above, many so-called linking programs offer complementary services such as business planning. Far fewer business planning or general farm start-up courses include land acquisition strategies in their curriculum. Women's Agricultural Networks (WagN), Farm Beginnings (Land Stewardship Project 2001), and the University of California at Santa Cruz specifically address land acquisition. Several nonprofits have produced tenure guides. California Farm Link's "Farmers' Guide to Securing Land" (Schwartz 2006) and the New England Small Farm Institute's "Holding Ground: A Guide to Northeast Farmland Tenure and Stewardship" (Higby et al. 2004) focus on non-ownership strategies for farm entrants. ATTRA's "Finding Land to Farm" highlights some common ways to lease or own land (http://www.attra.org/attra-pub/PDF/finding.pdf) and Land For Good, a New England-based nonprofit, specializes in "land acquisition readiness."

Incubator/mentoring. Incubator farms provide beginning farmers with training and support along with a plot of land loaned or leased to them. The land rental rate may be subsidized either initially or throughout the "incubation" period. In this way, a new farmer can gain experience as a farm operator without facing the risk of farming alone or the full costs of land acquisition. Farmers may also rent and/or share equipment and

facilities. Once their businesses are viable, they "graduate" from the incubator farm onto their own land (Hubbard 2006:1). Incubator farms are mainly but not exclusively privately funded. Examples of incubator farms include: Intervale Center (VT); the Agriculture and Land-Based Training Association (ALBA 2008) (CA); the University of California Farm Incubator Project; and the New American Sustainable Agriculture Project (ME) (Hubbard 2006). ALBA primarily serves Latino growers, providing access to land on two organic "incubator farms" along with operating capital and information. The land is leased via renewable annual contracts that are initially priced well below market value with incremental increases. Beginning farmers must first pass ALBA's Small Farmer Education Program, which is focused on farming methods, business planning, and marketing, before they are eligible for access to the farms. The farmers are assisted with transitioning to farm operations of their own, including help locating and acquiring land. (See Case Study: Phang)

5. Socially disadvantaged populations

Assistance. Several organizations work exclusively to help socially disadvantaged (SDA) farmers acquire both skills and land. These include: the National Immigrant Farming Initiative, ALBA, the Indian Land Tenure Center, Land Loss Prevention Project, and the New Entry Sustainable Farming Project (NESFP). For example, NESFP finds private landowners willing to rent small plots to graduates from its training program. As described above, ALBA helps move its trainees from its incubator farms to other rental land.

The Black Family Land Trust (http://www.bflt.org/history08.shtml) helps southern black families hold onto their land, resolve heir property disputes, and encourages sound estate planning for agricultural as well as other properties. The Federation of Southern Cooperative's Land Assistance Fund (http://www.federationsoutherncoop.com/) and the Land Loss Prevention Project (www.landloss.org) engage in similar work on behalf of black farmers and family land holders. Many black farmers feel that advocacy work on their behalf is essential, because the history of discrimination against black farmers runs deep in this country. (See Case Study: Dodson)

D. Recommendations

Goals for farm access and tenure. As described in this report, the historic as well as contemporary cultural bias in the U.S. is toward farmland ownership while simultaneously, the trend is away from it. Public policies and programs should be grounded in an understanding of these realities. In the absence of any guiding public policy vision or document regarding farm tenure, the FarmLASTS Project posits a goals framework for farm and ranch access and tenure. *For a resilient structure of agriculture, both ownership and tenancy—under the appropriate conditions—should be accepted and promoted as tenure options. U.S. agriculture policy should foster farm entry and viability by promoting:*

- *Increased opportunity for access to farms and ranches;*
- *Affordable option for farmers to acquire land and housing; and*
- *Secure tenure.*

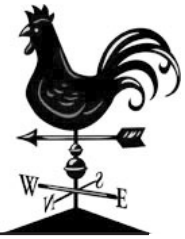
Furthermore, farm landlords should be educated and encouraged to provide land tenure that is affordable and secure, and to actively participate in partnership with the farm operator toward achieving shared conservation goals. Additional recommendations include:

1. **Articulate national policy objectives** for agricultural land tenure that will serve as a framework for USDA agencies and offices, programs, rules, and resource allocation.
2. **Conduct a new Agricultural Economics and Land Ownership Survey (AELOS) or enhance the Agricultural Resource Management Survey (ARMS)** to gather contemporary data on farmland ownership and tenure.
3. **Promote increased and appropriate use of loan programs**. Improve outreach to enhance use of FSA loan programs and the contract sales guarantee program. Insist on and enforce borrower training for beginning farmers seeking ownership loans. Encourage Aggie Bond programs in states that don't have or underutilize them.
4. **Promote written and more secure leases**. Provide information, education, and technical assistance to landowners and tenants to enter into longer-term agreements of at least five years duration.
5. **Promote share leases**. Provide information, education, and technical assistance to landowners and tenants to develop and negotiate share-leases. Make share-lease models and regionally appropriate fee formulas widely available.

6. **Educate and reward non-farming landowners**. Promote and provide resources for educational programming, outreach, and assistance, particularly for absentee landlords. Encourage greater involvement and investment and more secure tenure agreements through tax incentives or disincentives and/or other measures.
7. **Promote farming and ranching on public lands** and remove barriers to secure tenure on public land, including increased length of leases and ownership of improvements. Provide information, models, and technical assistance to public land managers to encourage agricultural uses. Work with conservation groups to mitigate any concerns they have about farming on public lands.
8. **Offer tax and other incentives to landowners** who lease or sell their land for farming, drawing from models in Nebraska and Iowa.
9. **Help farmers find properties and landowners find farmers**. Provide adequate public support for such services. Couple them with acquisition preparedness education and assistance.
10. **Examine tax laws** for barriers to farm transfers and amend federal and state tax codes to remove them. For example, eliminate the self-employment tax on share leasing.
11. **Reward or prioritize farm operators with succession plans** who are applying to programs such as public and private purchase of development rights or farm viability programs. The 2002 Farm Bill authorized NRCS State offices to include succession plans among the criteria for state PDR program matches.
12. **Promote the use of affordability provisions in easement programs**. Add language such as the Option to Purchase at Agricultural Value (OPAV) to traditional conservation easements to eliminate speculation and assure perpetual affordability for farmers on conserved farms.
13. **Encourage innovative land use and zoning** that prioritize and reward agricultural land uses such as farm-centric residential developments, cluster zoning with agricultural uses on set-aside land, and so on.
14. **Address farmer housing**. Develop schemes to link housing and land; emphasize affordable housing for beginning farmers.
15. **Promote tenure arrangements that help new farmers build equity** (e.g., sharemilking).
16. **Conduct research on issues and topics emphasized in this report, for example:**
    - Characteristics and needs of non-farming/absentee landowners;
    - Issues involved in the growth of cash leases versus share leases;
    - Obstacles preventing older farmers from addressing farm business and land succession;
    - Continuing discrimination of socially disadvantaged farmers;
    - Inventory and models for religious lands; and
    - Successful tenure and transfer models from Europe and elsewhere.

E. Case Studies

1. **Brake**: Cattle ranching on public lands in the Southwest.
2. **Dodson**: An African-American Farmer in the Southeastern U.S.
3. **Krusenbaum**: A Midwestern sharemilk incubator arrangement on leased land.
4. **Smith-Bennett and Rose**: Farm succession via land contract to young farmers (two contrasting cases).
5. **Phang**: Hmong farmer rents from a land trust farm incubator program.
6. **New Spirit Ventures**: Conservation Buyers Lease to Sustainable Farmers.
7. **Cuyahoga**: Countryside Initiative in Cuyahoga Valley National Park, Ohio.



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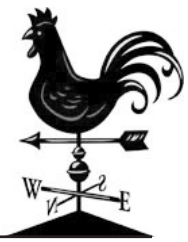

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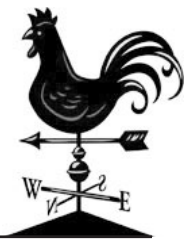

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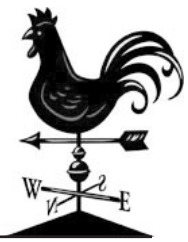

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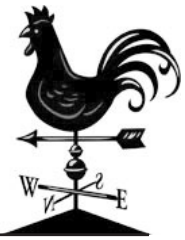


A. Context

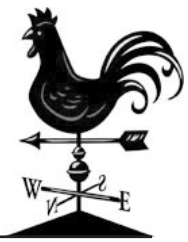
The future of U.S. agriculture depends largely on the ability of current operators to keep their farms viable and available for the next generation. Succession and transfer are challenging issues for exiting farm families. These people seek a meaningful legacy and deserve a comfortable retirement. Yet, most farmers do not plan adequately for exit and succession. Farmers avoid succession planning for many understandable reasons, and tend to lack necessary information and advisors to help them through the process. "Only a fifth of family farms survive the transfer to the next generation. This could be attributable to the failure to develop a succession plan" (Pitts et al. 2009). This section will address farm succession challenges and feature innovative and successful ways to address them.

1. Retirement and farm exits. The USDA estimates that as many as 500,000 of the nation's 2 million farmers and ranchers will retire in the next two decades (Wisconsin Dept. of Agriculture 2003). These farmers' thoughts about exiting are closely tied to their ideas about succession and transfer—passing on the farm's operation and assets. Failure to plan carefully for retirement and transfer of the estate can result in serious problems such as financial insecurity, personal and family dissatisfaction, and unanticipated capital losses (Mishra et al. 2005). Business succession is a challenging process for all family businesses, including farming. How exiting farm families address these transitions has enormous consequences, not just for those families, but for the next generation of farmers and ranchers, the overall structure of U.S. agriculture, local economies, and the environment. "[Retiring farmers'] succession decisions and retirement plans are of considerable importance to the farming community and the future structure of agriculture. Continuity of the family farm and the family farm sector is highly dependent on successful transfer" (Gale 2003).

The rising age of farmers has been widely acknowledged. Historically, the proportion of farmers aged 65 or above was about 16%. This rose to 25% by 1997, and the share of operators 65 and up—beyond conventional retirement—has risen steadily since then. This compares with only 3% of the U.S. work force over 65 years of age (US EPA 2009). The average age of U.S. farm operators increased from 55.3 in 2002 to 57.1 in 2007. The number of operators 75 years and older grew by 20% from 2002, while the number of operators under 25 years of age decreased 30% (USDA 2009).

"The growing population of older farmers may in part reflect the weakening of 'family farm' institutions, including life-cycle patterns of farmland acquisition and disposal and intergenerational transfer of farm assets" (Gale 2003). The issue of aging farmers was first raised nearly forty years ago. However, the predicted mass retirements never occurred. Instead, older farmers continue to farm at ever increasing ages—way past traditional retirement age, and are quitting at slower and slower rates (Hoppe and Korb 2006).

Forty years ago, poverty among aging farmers also was a concern (Gale 2003). Today, there is a concentration of farm assets in the hands of elderly farm operators and landlords, with older age-group farm operators and landowners controlling over one-third of all farm assets. The average value of assets owned by operators aged 65 and older is over $500,000 (USDA 1999). But while the figures show a relatively high asset wealth among older farmers, the expression "land rich and cash poor" more accurately portrays the situation faced by most family farmers. The average non-farm net worth of those planning to retire is much lower than the average for all farm households. This indicates a concentration of their assets in farming and a substantial share (97%) tied to the farm, principally farmland (Mishra et al. 2005). As farm operators exit farming, there will be turnover in these assets. How, when, and to whom such assets are transferred is closely linked to income and quality of life for farm retirees as well as to the future viability of the farm operation and opportunities for farm entrants. Whether or not they have children to take over the farm, at some point aging farm operators will sell, rent, gift, or bequeath their farmland and other farm assets to others. Receivers include children, other relatives, neighbors seeking to enlarge their farms, other farmers and developers. Among farm operators who plan to retire from farming in the next five years, about a fifth report that they plan to rent out the farm, and another fifth plan to sell the farm. The remaining operators plan to turn over operations to others or convert their land to other uses. Therefore, a substantial portion of the 87 million acres owned by the 42% of operators planning to either rent or sell their land will likely become available in farmland markets in the next few years.



Older farmers stay in farming for various reasons. These include: general patterns of greater longevity; better health in later years; increased mechanization resulting in less physically stressful labor; reluctance to stop working for financial or emotional reasons, and—not the least—continuing satisfaction with farming activities. But "staying in farming" and "retiring" can mean many things. One farmer may say he is retired but continue to drive the tractor. Another might claim to be semi-retired and still control the checkbook. An Iowa study revealed that over one-fourth of surveyed farmers indicated they do not expect to ever retire. Another 38% said they plan to semi-retire at some point (Baker et al. 2000). A 2006 Iowa survey defined retirement as providing no managerial control or labor to the farm and semi-retirement as providing some managerial control and/or labor to the farm (Baker 2007). In fact, retirement is a process, not an event. It can take a decade or more. Adequately addressing this process is the key to a successful transfer.

When I die the farm will be transferred to my kids, which none of will farm and so they will probably continue renting as we are doing now. They are determined the farm isn't going to go outside the family; they are devoted to it and committed.

—Woman Landowner Focus Group Participant

2. What is farm succession? In the family business literature, succession is the transfer of management and leadership from one generation to the next. In this framework, succession is distinguished from the transfer of real estate and other assets that require changing legal documents. Often, succession is intended to imply an *intra-family* transaction, from senior to junior within the same family, but it is not by definition limited in this way. Others see succession as a set of social decisions, in contrast to transfer, which focuses on the legal and economic decisions (Danes and Leifeld 1995). Some use the terms succession, transfer, and transition interchangeably. Succession is a complex process that often takes several years and may pass through several stages before it is complete (Crispell and LaDue 1996).

Succession challenges are not unique to farm businesses. Succession is a difficult process for most family businesses. The failure to face and plan for succession is an all-too-common problem. About 30% of family businesses make it to the second generation. As mentioned above, the number is about 20% for family farm businesses. Only about 15% survive to the third generation.

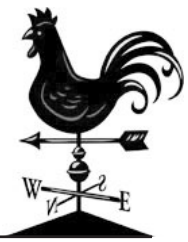
One unique aspect of family farm transfer is that it generally involves both farmland and the farm business. Transfer of land does not equate to succession of a business operation. Many farm and ranch families own, operate, and live on land that has been in the family for multiple generations. They desire to retain family ownership of the land because land is perceived as both wealth and a non-monetary legacy. When at least one generation lives on the property, the locus of management of the family business may be the home of the primary operator. This raises the problem of the successor—or the exiting farmer—being able to find adequate housing proximate to the home farm.

Many farmers underestimate the importance of transferring decision-making authority as a part of farm business succession. They do not understand succession as a process that involves the transfer of income assets *and* management. Many think that the transfer of the real estate is the most important decision, but in a successful transition, the real estate transfer should be an end result that is easier to achieve if other family and transition issues are resolved (Bowlan, no date). Business succession requires that the senior operator hand over management and leadership of the business by stepping aside, which is to say, retiring.

I have worked two jobs, farmed [this land] and went to church on Sunday. I had a full-time job, and paid it off. Now I am in hopes of leaving the farm to my grandson.

—African-American Farmer Focus Group Participant

The older generation delays transferring decision-making responsibilities for a variety of reasons (Baker 2005). It may be that the older farmers are concerned with ensuring the retention of an adequate amount of farm assets to provide retirement income. By retaining the decision-making authority, they may believe they



are reducing the risk that their successor will fail and the farm assets, along with any retirement security, will be lost. They may feel overwhelmed by the prospect of tackling the transition or of letting go. According to one junior operator, "[farmers] do not like the idea of sharing responsibility—especially when they have been a sole proprietor for thirty years. As my father said when I approached him about transferring some responsibility, 'And what am I supposed to do, die?' To which I replied, 'What am I supposed to do, wait for you to die?'"(Reviewer, personal communication).

Within agriculture, one framework for a traditional, intra-family farm succession process posits four stages (Hutson 1987). The first stage is signified when the successor finishes his/her education process and begins full-time employment on the farm. Often during this stage there is a period of conflict as the successor attempts to assert his/her own set of values and beliefs.

In the second stage, the primary operator and successor work to maximize the output of the farm and expand the farm operation from a one-family to a two-family operation. Although both the senior operator and successor may be working full time on the farm, the senior may be under more financial pressure and still be working as hard as when he/she was early in the succession process. Now there are two families to support. In this stage, several decisions must be made with regard to supporting the successor: Should the farm expand? Should additional land be purchased? Should a separate enterprise be developed? The successor will likely have an impact on financial, technical, and investment concerns.

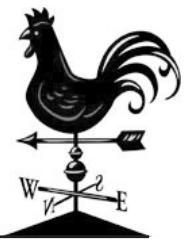
In the third stage, the successor becomes more responsible for management of the farm operation. "The sharing of authority and responsibility during this stage can promote a strong partnership founded upon mutual trust and understanding" (Coughenour and Kowalski 1977). As the successor gets older he/she becomes more independent and the farm operator begins to transfer managerial control. The spouse of the successor may not be included in the conversations about the farm operation and this may be a source of conflict between the successor and the spouse (Craig and Killen 1984).

The fourth stage is signified by the retirement of the operator and the successor taking control of the farm. While the senior operator may relinquish managerial control, he often retains ownership of at least some of the farmland until death, ensuring retirement income and some measure of control (Hutson 1987).

Other researchers (Gasson and Errington 1993) frame succession around four general patterns:

- *Standby Holding*: The successor is set up (often by a parent or other relative) on his/her own farm, allowing the opportunity to develop managerial skills. Equipment is often shared, but the successor runs his/her operation independently.
- *Separate Enterprise*: Some farms can develop a separate, "spin-off" enterprise for the successor. Such enterprises could include a separate/new line of livestock or a farm-contracting business. The successor can develop his/her own management and decision-making skills that can be used when he/she is farming alongside the older generation.
- *Partnership*: This type of relationship can be formally cemented and allows shared responsibility between both generations. But when done only "on paper," this would fall into the farmer's boy pattern.
- *Farmer's Boy*: The successor spends years working alongside the older generation without having much involvement in decision making. Usually the successor is simply a supply of labor to the farming operation. Consequently, the successor fails to develop the managerial skills necessary to run a farm operation. The successor's reward may be the eventual ownership of the farming operation, but he or she may be without the requisite skills to operate it.

Two additional, less conventional categories of successors have been identified—those over the age of 16 who are in full-time education, and those who take a "professional detour" prior to taking over the family farm (Errington and Lobley 2002). A professional detour includes working on another farm, working at an off-farm job, serving in the military, or traveling. This strategy may be particularly suited to operations that cannot support two families. The younger generation can gain equity from off-farm employment and asset owning while waiting until the older generation retires. A successor may go from one category to another. The successful transfer of a farm depends on preparing the successor for the retirement of the principal farm operator and the decision on what pattern to follow will affect how the transfer progresses.



B. Issues

With these challenging and emotionally weighty considerations, it is not surprising that so few farmers have adequately prepared themselves to exit farming. According to one study, only 36% of farmers and farmland owners have an estate plan. Eighty-two percent did not have an exit strategy and do not know how to develop such a strategy. Further, only 12% of farmers had formulated a retirement plan and 88% indicated they have not made adequate financial plans to provide income for their retirement (Spafford 2006).

Without adequate planning, the consequences can be disappointing, if not devastating. Farm operations can end, family lands might have to be sold and in some cases converted out of agriculture, and families might be torn asunder. On the other hand, families that address succession and transfer in a timely matter are much more likely to achieve their personal, family, and business goals.

There are five major challenges in planning for farm succession:

1. Resolving financial, tax, and legal matters
2. Identifying a successor
3. Transferring management
4. Addressing family issues
5. Obtaining assistance

I hear people talking about I want to leave my farm equally to my children. In a lot of families you cannot do that because you are setting that farm up to be gone. ... So it's so important that we do those kinds of plans... before we close our eyes; don't wait until you get so old and don't think you can't change your plan.

—African-American Landowner Focus Group Participant

1. Resolving financial, tax, and legal matters.

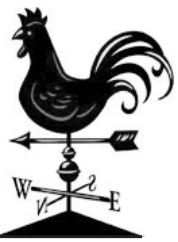
Farm viability. The first question is whether the farm is financially healthy enough to transfer from one generation to another. What is the family's commitment to the future of the business? What are family and business goals? Can the farm support two families during transition? If so, how? When more than one child wishes to farm, arrangements may have to be made to increase the size of the farm to support more than one family or the family must adjust expectations to accept the fact that it can support only one child (Barclay et al. 2005).

What are the business alternatives that offer the best chances for a successful transfer? If the operation is not going well, the transition process can be a positive opportunity to reassess the operation and make changes. Farm families may consider developing a new enterprise, transitioning to different production methods, or creating new markets. Frequently, the next generation, whether family or non-related, will have different ideas about how to farm, as well as the ways to integrate a farm business into the family lifestyle. In some cases, the current operation might discontinue and be replaced by a new enterprise or enterprises.

Income. A major concern for older farmers is income —while they are farming, bringing on a successor, and for retirement. When values for land and capital are high, division of assets is more difficult because the cost to get into the operation will be high. But this also might provide enough income to add a family member. When farm income is in decline and land values are depressed, the farm may not be able to produce enough income for more than one family and the retiring farmer may not be able to capitalize enough income for retirement (Barclay et al. 2005).

When land prices are high landowners wishing to capitalize on the high land values may want or need to cash out some or all of their land. Unfortunately most new farmers cannot afford to purchase land at these high prices (Elmendorf 1998). This problem is especially acute where land is at an even higher premium, such as in areas of the Northeast and West coast and in more rural areas in close proximity to a city such as Madison, Des Moines, or Omaha. Where the sale of land is a component of a transfer plan, a reasonable balance must be achieved where the land is priced low enough to allow the new landowner to purchase a portion of the land, yet priced high enough to provide the current owner with sufficient funds toward retirement.

"Retirement and succession planning are of considerable importance to farm households and there are good reasons to believe that they



are affected by savings and retirement policies in ways that are different from the rest of the Nation's households" (Mishra et al. 2005). "Furthermore," notes Mishra, "because of the nature of the farm business, farm households have different savings habits and more diverse financial portfolios than most other U.S. households. Farm households' financial portfolios include more personal savings than those of the typical U.S. household and, in general, farm households are also less dependent on social security income during retirement."

Spouses have a special set of concerns. Farm wives typically outlive their partners and have fears about outliving their retirement income. The Iowa-based Women, Land and Legacy project (www.womenlandandlegacy.org) found that women —while integral to the life of the farm—frequently don't have access to or experience with financial information, production and land use details, and legal agreements. They want to be involved and have unique and valuable contributions. But they often hold back from meaningfully contributing to the succession process. If they are widowed before a plan is in place, they are more vulnerable to pressure from children, neighbors, tenants, and developers. Assuring income through retirement and providing for spouses requires detailed planning guided by the reality of the farm business and asset values.

Minimizing the impact of taxes on the transition of the farm family business is a legitimate concern, but its importance is often overvalued.

In an effort to bring in younger farmers, Europe has created a nationalized pension scheme called the European Union's Early Retirement Scheme (ERS) that's designed specifically for aging farmers. This EU pension plan is designed to allow farmers of participating EU member nations to seek early retirement if they are between the ages of 55 and 66. The program pays farmers a maximum of E. 15000 a year in monthly installments. The financing of the ERS is split; half is paid by the member nation, while the other half is paid for by the EU. The program is optional, with Italy, Luxembourg, Sweden, and the UK, choosing to opt out of the scheme (Bika 2007).

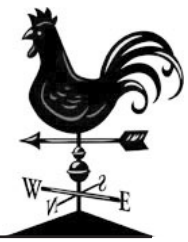
France has the lowest percentage of farmers among sample countries that expect to fund retirement from selling farm assets. This is likely attributable to the European pension plan and a national program that has been in place since 1962. The success of the ERS is not entirely clear. While assisting many farmers to retire, over 30% of farmers in the Mediterranean area are still over 65 years of age, and the overall percentage of EU farmers over 65 remains about 29% (Bika 2007).

Taxes. Tax consequences should never stand in the way of a farmer deciding to retire or step away from the farm to allow succession to take place. When assets are transferred, the method of transfer can have an effect upon the tax liability. Assets may be transferred by gift or sale, passed through a will, placed in trust, or transferred to a business entity that survives the death of the original owner.

Farmers often cite federal estate taxes as an impediment to farm succession. However estate taxes only affect the wealthiest 2% of Americans and unless an estate exceeds $3,500,000, as of 2009, an estate tax filing will not have to be done. The 2002 value of the average value of a farm was $537,833, which is far below the exemption amount (USDA NASS 2004). Also, currently a spouse can be given any amount of an estate without incurring estate taxes. While there may be specific cases where this is a significant factor, the American Farm Bureau Federation could not give evidence of one family farm that had to be sold to pay off the estate taxes (Huang 2007). The estate tax issue may become more pressing if the threshold is lowered in the near future.

Another challenge occurs when the farm owner wants to sell the farm at a discount to a family member or other young farmer. Unless the sale is conducted at "arms' length," the IRS may determine this as a partial gift, which can potentially result in considerable *gift taxes* for higher value properties (Elmendorf 1998). When farm business capital assets are sold, *capital gains taxes* are realized on the gain on the sale. The gain is the difference between the basis and the sale price. Basis is the value of the asset at the time the owner came into ownership of it. However, capital gains taxes are usually taxed at a lower rate than earned income.

Tax laws may also encourage farmland owners with a low basis to elect to hold such assets until death and pass them through a will or trust. This results in the appreciable assets receiving a new basis, which is the fair market value of the asset. This is often referred to as a "step up in basis." Heirs receive the assets with the higher basis, which reduces potential capital



gains tax in the future. Therefore, the heirs can benefit from waiting to inherit the farmland. The problem is that they may have to wait years before they will own the property. The bottom line with taxes is that the fear of taxes prevents some farmers from planning for a farm transition while the reality is that the greatest impact of taxes is when no planning is done.

Legal issues. Often a farm transfer involves creating or modifying a business entity. For example, to bring a son or daughter into the business, the senior operator might create a limited liability company (LLC) through which to gradually transfer assets. Failure to select the most appropriate entity or to make timely changes in operating agreements can result in bad and costly outcomes. Other instruments that facilitate farm succession include wills, trusts, and leases. Retirement planning, estate planning, and farm succession planning are all intertwined; each has its own set of legal questions, procedures, and documents. Tackling each—not to mention all three—can feel overwhelming.

In addition, older farm couples need to think about documents such as durable powers of attorney, living wills, and health care proxies. Most of these require legal advice, and some require more involvement by an attorney to prepare documents. Farm families are no different from other families in their reluctance to deal with these necessities as well as in their concern for the costs involved in acquiring them.

2. Identifying a successor

With fewer farm children choosing farming careers, passing on the family farm operation takes on an additional challenge. If the goals of a farm operator are to keep the farm business going, a successor must be identified, brought onto the farm, and groomed for transition. The more certain a farmer is that he or she will fully retire, the more likely he or she has identified a successor (Errington and Lobley 2002). In an Iowa study, of those planning to retire, only 32% had an identified successor. Of those not planning to retire, only 18% had a successor (Baker, et al. 2000).

Historically in the U.S., as in many other cultures, the dominant form of inheritance has been primogeniture, where the first-born male child is generally the heir. Male succession appears to still dominate. Several studies show that less than 10% of U.S. farmers had identified daughters as a potential successor. Respondents in a 2006 Iowa survey were an exception to this general trend in that 16% of respondents had identified their daughters as the potential successor, up from 10% in 2000 (Epley et al. 2009). (See Case Study: Jamison)

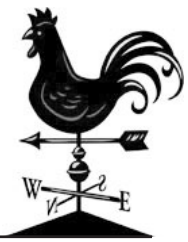
An additional problem facing farmland transfer is fractionation, which occurs when all heirs receive some portion of the farmland. This creates a mess for estate management, makes it difficult for a member of the family to keep the farmland together as a working farm, and makes it more likely the farm business will not continue. Fractionation can be particularly challenging in African-American and Native-American farming communities. (See Section II, Access and Tenure.)

For those families whose children may become successors, the process of succession planning may begin at an early age. The child begins receiving knowledge and training which eventually may lead to a transfer of the farm's managerial and decision-making responsibilities. Thus, this transfer is several decades in the making. If the successor is not a relative of the operator, he or she will not usually be involved in the operation of the farm until later in life, resulting in a transfer which often occurs in a shorter amount of time.

Farms with family successors may face considerable challenges, such as family communications, decision-making, income, and treatment of non-farming siblings. Farms without an identified family successor face these as well as additional challenges. First among the potential challenges is finding a suitable successor.

One thing I think we are all guilty of is not utilizing the farmland we have. So… we could bring in young folks; if nothing but just rent them a space and teach them about the aggressive ways of farming now. We have to get young folks involved; we have to be innovative on our farms.

—African-American Landowner Focus Group Participant



It could be a neighbor familiar with the farm or a complete stranger. The next challenge is developing a relationship—possibly from scratch, building trust, and passing on knowledge. The exiting operator must also deal with non-farming family members. The actual transfer mechanics are not very different whether the successor is a family member or not.

3. Transferring management

The transfer of management of the farm operation is a critically important part of farm succession that is often overlooked by farmers, researchers, and service providers. Most studies on farm succession focus on the transfer of physical assets, often overlooking the importance of the successful transfer of intangible assets. The transfer of management decision authority is also separate from the legal transfer. The International Farm Transfers Studies examined the process of succession and the transfer of decision-making and managerial skills from one generation to the next. To date, studies have been conducted in England, France, Ontario, Quebec, Iowa, Virginia, North Carolina, Pennsylvania, California, Japan, Germany, Poland, Switzerland, Slovakia, and Australia.

In every study, successors were more responsible for the simple day-to-day activities while financial decisions such as when to pay bills and locating and negotiating financing were the activities least likely to be delegated to the successor (Uchiyama et. al 2008). In other words, across cultures, the more important the management decision, the less likely the senior operators were to hand over the decisions to their successors, and the longer they delayed in transferring responsibility for those decisions. Significantly, over 50% of spouses of retiring farm operators say they have been a decision-maker for the farm business. On average, spouses of operators who are planning to retire report having 30 years of experience as a farm or ranch decision maker (Mishra et al. 2005). So it is not only the exiting operator for whom management transfer is an issue, it also concerns the involved spouse.

As stated above, the transfer of management is a process and not an event. Since many older farmers want to stay involved in the farm, the transfer process can be seen as something positive that happens over time. On the one hand, the iron grip of the senior operator can thwart the younger generation. The younger generation may tire of pushing for more involvement and responsibility, or for changes in the operation, and in frustration, may leave the farm. On the other hand, the succession process offers opportunities for mentoring and mutually rewarding shifts in responsibility. (See Case Study: Miller)

4. Addressing family issues

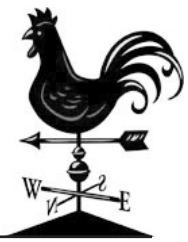
Transferring the land and business to the next generation is a complicated process because it includes a complex web of economic, legal and social decisions (Danes and Leifeld 1995). The lines between the family and the business are often blurred in a family business and overlap a great deal. Most family firm literature uses a three-circle Venn diagram to describe family firm systems: family, management, and ownership.

While the farm family goals and the farm business goals are often difficult to keep separate, it is important to articulate and acknowledge both sets of goals. Passing on a viable farm may be the most acute concern, but close behind that are harmonious family relationships. At times, the family goal– to nurture its members and the business goal to make money are in conflict (Canadian Farm Business Management Council 1997). Such conflicts may become especially emotionally charged when discussing succession planning. Often the older generation would rather keep silent about these issues, hoping to avoid them altogether. When these potential conflicts are put off, it results in worse problems down the road. In fact, farm transfer professionals will say, "The soft [social, family, interpersonal] issues are the hard issues."

I have four children not at the point of deciding what to do with the land. I am not sure, though, that I will let them have the land and sell it for development. They might have to do what I want them to do with it, or they don't get it! I would like to maintain it as green space.

—Women Landowner Focus Group Participant

In a 2006 Iowa survey, nearly half (47%) of respondents said they had not discussed retirement with anyone (Epley et al. 2009). Only about half of U.S. respondents in the



International Farm Transition Studies who planned to retire discussed retirement with their family (Barclay et al. 2005). Next to a farmer's family, accountants are the people farmers are most likely to talk to about their retirement. Generally, retirement discussions increase once a successor has been identified (Uchiyama et al. 2008).

The transition into retirement is often experienced as a profound change for the exiting farmer. Danes and others describe operators' reluctance to face change, preferring to continue as they are (Danes 1995). These changes are experienced as the loss of identity, control, value, status, and community. This sense of loss is described by the grief cycle in which the operator moves through five stages on the way to a newly meaningful life off the farm (Danes 1995). On the other hand, the senior operator may continue to have some kind of lesser role on the farm for a long time.

The sense of loss is particularly acute if the farmer has not cultivated any other interests outside of farming. As one observer of farm succession noted, "The guys in their coveralls have probably never taken the time to learn to golf or play bridge or travel. The whole focus for 50 or 60 years has been the farm." A Montana farmer said, "I look at some of my friends that retired and quit, and they are dead already. As long as my health is good, I feel I should be doing something."

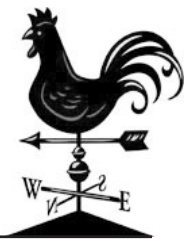
It is not just the operator who is impacted by retirement. A farmer's spouse (most typically the wife) must face changes in the family that are often accompanied by feelings of loss, fear, and anxiety. The couple needs to address lifestyle changes, health and health care concerns, and where they will live.

The farm is not only the location of the business but usually the primary residence of one of the farm operators. Unlike many non-farm businesses where the owner can keep his/her personal and business life separate, it is difficult for farmers to do so. Since a farmer's home is also the center of the farm business, it is impossible to step away from the farm. One study shows that most farmers do not plan on moving off the farm when they retire (Barclay et al. 2005). If the older generation continues to occupy the farm residence, what will they do, and where will the next operator live? When the successor does not live at the locus of the farming activities, logistical problems are often created. In one survey, 66% of those respondents who indicated they would be moving off the farm said they would be moving fewer than ten miles from home (Epley et al. 2009).

Sometimes conflicts that must be addressed but are all too often avoided surface during the succession planning process. As with any family, farm family dynamics are complex and sometimes fraught with issues. The family is not always on the same page when it comes to planning for the farm. One of the most important factors in farm succession planning is family communication. Every International Farm Transfers Study has shown that farmers need to improve communication; families need to sit down together and talk. Who is at the table? Can father and son have a constructive dialogue? Spouses need to be involved, too, as well as all children and perhaps the next generation. Is the daughter-in-law a part of the discussion? The nephew who has been employed on the farm?

A recent study by Pitts and colleagues focuses on the "dialectical tensions" underpinning family farm succession. She posits, "Although researchers and educators stress the importance of family communication for succession planning, communication in the farm transfer process has not been closely examined" (Pitts et al. 2009). As a communications researcher, she analyzes the dialectics of the tensions surrounding succession, and a family's interpersonal methods of responding to them. The tensions are: a) relinquishing versus retaining control; b) being fair versus doing what's right; c) profit versus affordability; d) explicit versus implicit communications; and e) progress versus continuity. In her study of Pennsylvania farm families, she concluded that the tension that appeared to be most obstructive to succession planning was that of meeting competing financial needs: addressing financial security for the exiter *and* affordability for the successor. Both generations must have realistic financial expectations of the farm business.

One of the most challenging issues for an exiting farm couple is how to treat heirs. While primogeniture presents division problems, families that insist upon dividing assets equally often unwittingly undermine their goals for the future of the farm. One child might not be able to afford to buy out the others. By contrast, equitable treatment of heirs might mean that the child who has been working in the farm operation gets the farm and the others inherit other assets that are not necessarily of equal value. With norms against "favoring" a child or siblings and fears about sacrificing what might be best for individual family members for the sake of the farm, the older generation can feel paralyzed and fail to make timely decisions.



Farm succession planning professionals emphasize the importance of starting with goal setting—personal, family, and business goals. The first step in initiating a successful farm transfer is discussing the goals, wants, and needs of all parties involved. It is important to include extended family members, in-laws, and non-farming heirs in these discussions. Even this first step can feel overwhelming. Sometimes the process benefits from guidance from an outsider who can earn the trust of the family, facilitate discussion, point out options, and urge the process along. Even families that take a first step such as attending a farm succession workshop or talking to an accountant or estate planner find it hard to keep the process going. In one farm transfer workshop, participants ranked "taking the time," "working through family dynamics," and "keeping on track to get it done" as the items with which they most needed help (Heleba 2007). (See Case Studies: Miller, Winge)

5. Obtaining assistance

Despite strong desires to keep the family farm viable and in farming, the future of many farms is threatened because families have not done adequate and timely succession planning. The family farm is most vulnerable after the death of the primary operator. It is best to begin planning the transfer early to increase the probability of a satisfactory succession. However, only 27% of farm operators report having a succession plan (Mishra et al 2003). The smaller the sales of the farm, the less likely it is to have a succession plan and an identified successor (Hoppe and Korb 2006). In addition to the obstacles listed above, the succession planning process is challenging because families may be disinclined to seek help. It is also hard for families to find the help they need. "Most families benefit from the services of estate planning professionals. …When professionals do assist…they might not appreciate how the transfer process could be impeded by emotions or the stress…on family farms" (Pitts et al. 2009).

The National Ag Risk Management Library lists nearly two-dozen land grant university, Extension farm transfer, succession assistance, and education efforts. In addition, a variety of both private and non-profit organizations provide succession and transfer planning services. About twenty states are served by some kind of farm-link program that introduces farm seekers to available farm properties. (See www.farmtransition.org.) Many of these offer estate and succession planning assistance. In some areas of the country, some attorneys and accountants specialize in farm estate planning, but in other regions, professionals with agricultural specialties are few and far between. Estate and succession planning workshops help to elevate awareness and may stimulate a family discussion, but farmers report that it's extremely hard to keep the process going.

Succession and transfer planning requires a team approach. A family may need the input and guidance of an attorney, estate planner, accountant, health care planner, land use planner, conservation specialist, farm management specialist, and/or mediator. While most farm families say they have a lawyer and accountant, it is hard for them to find the right professionals to focus on farm succession and get them to work in concert toward the family's goals.

We [installed drainage tile that] improved the [rented] land; this is something we can't get back. So we are trying to keep improving even on rented ground. … We explain to the landlords what it needs and a lot of times the landlords are very understanding and they try to help with cost share.

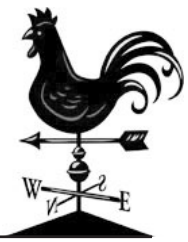
—Women Landowner Focus Group Participant

C. Successful and New Approaches and Models

1. Resolving financial, tax, and legal matters

Advantageous transfer strategies. Professionals agree on "best practices" for succession that include some or all of the following elements: starting early; gradually transferring over time; transferring during lifetime; gifting; and other approaches that offer the best chances for success. "Effective succession planning begins well in advance of when the younger generation is expected to take control so managerial roles and legal ownership of the farm can be transferred gradually" (Pitts et al. 2009).

Retirement savings. Income during retirement is linked to a successful transfer. Adequate income greatly lessens the fear of outliving assets and needing farm assets to fund



retirement. Farmers who contribute to IRAs, other retirement accounts, and outside savings can draw on these to provide retirement income. Social Security, too, can provide vital retirement income. However, most farmers have spent a lifetime trying to lower income taxes only to find out that it affects their Social Security lifetime benefits. As described above, France has a model that encourages farmers to transfer farm assets in order to qualify for a government pension.

Tax laws. Current capital gains tax laws may encourage older farmers to hold onto their land and rent it out for retirement income. Despite reduced tax rates on capital gains associated with the appreciation in farmland values, the prospect of avoiding capital gains taxes altogether on any appreciation prior to death continues to encourage farmland owners to hold the land. Through inheritance, heirs receive a step up in basis and no capital gains taxes are paid. In addition, earned income tax rates and self-employment taxes for farmers encourage actions that lower income and affect potential retirement income. State capital tax laws also discourage the sale of farmland.

1031 exchanges. The tax law allows for a tax-free exchange of like assets that permits "trading" of farmland for other farmland. This is most advantageous when farmers are limited by expanding suburban pressures. They could "trade" the farm for land of similar value elsewhere, allowing the farm to continue without urban pressures. These transactions have rules and need to be done with the advice of an experienced accountant and attorney.

Business entity. Sole proprietorship accounts for 90% of farm entities in the U.S. (USDA NASS 2004). However, a variety of business entities have become popular in recent years as a means of transferring the managerial control and ownership of the farm business assets. Partnerships, limited liability companies (LLCs), and S-corporations are the most popular types of business entities used by farmers. Each of these entities has benefits and drawbacks, but all of them potentially can aid the succession process.

Buy-sell agreements. Another tool that is gaining popularity is a buy-sell agreement that can facilitate the transfer process by protecting heirs and current operators. A well-designed and executed buy-sell agreement binds the partners in a farm operation so that one partner buys out the other upon his or her death or retirement. The parties to a buy-sell agreement form a contract indicating the value of assets, repayment terms, and any other terms to which the parties want to agree.

Life insurance. Insurance payments can be used to provide funds necessary for such a buyout. Life insurance can also enable a farming child to buy out the non-farming siblings.

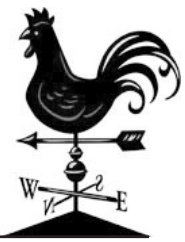
Creative use of easements. Easements can provide liquidity for the farm, make the farmland more affordable for the successor, and provide a source of cash for other activities. While easements can provide some creative options, they can also limit the options of the next farm operator and therefore need to be carefully planned and negotiated. Pennsylvania NRCS includes succession planning as a selection criterion in its Farmland Protection Program match. Massachusetts provides funds to farm operators with permanent and term state-purchases easements to obtain succession planning assistance.

Leases can be used in a stepped process toward succession. Leases can be used for land, equipment, and livestock. Leases are a written rental agreement between two or more individuals or entities that define the rights, possession, payments, and length of time one has access to an identified asset. Leases provide assurance of access and are often used as a tool to move toward a sale, gift, or transfer. Leases are not new or necessarily innovative, but they can and should be seen as potentially flexible and creative tools to divide rights and responsibilities between landowner and land user. Leases can offer more security, address both parties' stewardship goals, and provide a clear way to share risk. Share-leases and longer-term leases are less widely used and have advantages for both parties.

2. Identifying a successor

Linking programs. Farm families without family successors can turn to farm linking programs. These programs offer a range of services from simple property listings to more active matching and negotiation assistance. The International Farm Transition Network (www.farmtransition.org) maintains an online directory of linking programs.

Tenure without transfer. Families that wish to hold onto the property but do not have a family successor can offer long-term security to a non-family operator through lease agreement(s). For example, two Wisconsin brothers are offering a long-term lease on their crop and livestock farm, along with a building lot, to a young farm family. The entering farm family has



security that they have access to the farm assets and can potentially build equity in their livestock.

3. Transferring management

Management transference. "Best practices" includes gradual transfer of managerial roles between generations. This can be started by "spinning off" an enterprise for the successor, or by delegating specific responsibilities. In any management transfer scenario, the key is clarity about responsibility, accountability and timeline. Very few practical resources exist to help farmers address management transfer.

Sharemilking model. Sharemilking is a business model that assists both the entry of beginning farmers and the exit of retiring farmers. In a sharemilking agreement, beginning farmers earn income from a portion of milk and heifer sales in exchange for managing the herd under the supervision of the retiring farmers. This arrangement provides the retiring farmer a share of the income from milk sales while he is bowing out of the operation and also gives the entrant supervised management experience. (For a fuller discussion of the sharemilking model, see page 20 of Section II, Access and Tenure and the Case Study: Guralski.)

I don't have any heirs and I think about this a lot. I would like to see a young person or group of young people get my farm. It will be worth a lot of money so young people won't be able to afford it. Maybe we work out some sort of deal in the sale to the right person.

—Women Landowner Focus Group Participant

4. Addressing family issues

Focus on family communications. Many farm succession curricula emphasize communications, family meetings, goal setting, and other "soft issues." See, for example, worksheets developed by Sharon Danes (University of Minnesota http://sdanes.cehd.umn.edu/TransferWorksheets/), NY Farm Link's transfer guides (http://www.newyorkfarmlink.org/), and Transferring Your Farm or Ranch to the Next Generation (http://msuextension.org/publications/FamilyFinancialManagement/EB0149.pdf)

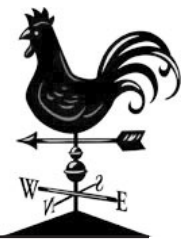
Support the younger generation. Typically, succession programming targets the exiting farm operator or family and not the successor. Ironically, the successor is often much more motivated to tackle succession planning than the senior operator. Helping the successor (within or outside the family) move the senior generation to the first conversation or other needed action may be the most effective service strategy. Iowa State Beginning Farmer Center's Ag Link classes do this by inviting students' parents to join in the class.

Peer and group support. In Maine, a Cooperative Extension educator organized small peer groups of several exiting farm families who met together over a period of time to support one another. As mentioned above, the Iowa State Beginning Farmer Center's Ag Link seminar invites students and their parents to participate in multiple planning sessions.

Facilitation and mediation. Sometimes, a neutral third party can help—or is essential—to move the family conversation along. A facilitator can be a professional mediator, friend, pastor or trusted professional advisor. Facilitation is not the same as mediation. Mediation is a formal dispute resolution process. The USDA Farm Service Agency sponsors the Department's Mediation Program. Most often it handles disputes linked to USDA programs (e.g., credit, grazing on public land, conservation compliance, etc.). Many states have certified agriculture mediation programs that operate in partnership with USDA. They can assist with disputes related to family matters that have legal implications. (See http://www.mediate.com/articles/baileyc1.cfm.)

5. Obtaining assistance

Educational programming. Many Extension service providers, nonprofits, and other groups conduct succession planning education. The Risk Management Education Library boasts nearly seventy items on succession and estate planning. Multi-partner collaborations in California, the Pacific Northwest, New England, and the Midwest have resulted in wide reaching farm succession programming for farm families. Two initiatives focus on women, the Iowa-based Women, Land and Legacy Project (www.womenlandandlegacy.org) and New England-based Women and Farm Transfer Project. Several new projects funded by the USDA



Beginning Farmer and Rancher Development Program include farm and ranch succession education; new models and tools that emerge will be valuable additions.

Finding help. The International Farm Transition Network lists farm linking programs and resources across the U.S. At a regional level, the Farm Transfer Network of New England offers an online directory of various categories of providers and online resources. Land Loss Prevention Project focuses on heir property and fractionation issues faced by African-American farmers and other landowners. The Indian Land Tenure Foundation has a comprehensive curriculum on land tenure issues for tribal lands, where fractionation is a key issue. Purdue, University of Vermont, and the University of Minnesota all have comprehensive websites addressing farm succession.

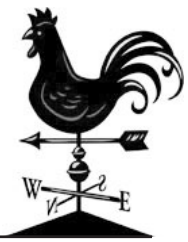
Coaching. As mentioned above, more than 20 land grant university Extension systems provide assistance for farms considering and going through the transition process. Washington and Oregon Extension collaborated on a project in which they held succession planning workshops that added ongoing "personal" coaching from WSU-trained coaches who had experience in business and/or banking. (http://extension.oregonstate.edu/umatilla/mf/sites/default/files/Tuck_FSP_RMA___Hort_Presentation_09.pdf) Extension services are generally available free or at minimal charge to farmers.

Other organizations such as Land For Good (LFG) offer succession planning coaching that consists of ongoing support and consultation through the planning process. Based in New England, LFG assembles and coordinates a team of advisors, helps prepare documents, and facilitates family meetings (www.landforgood.org). Elaine Froese is a certified coach who focuses on farm families. Based in Manitoba, Canada, Ms. Froese works with families through succession and other transitions. She also makes materials, numerous articles, and a website available to transitioning farmers (www.elainefroese.com). NY Farm Net employs retired Extension educators and individuals from SCORE for "kitchen table" meetings (www.nyfarmnet.org). These coaches can be very helpful to farm families. Many of the above charge for their services but their expertise is often well worth the value in overcoming the obstacles to developing a transition plan.

D. Recommendations

Governments at all levels should articulate the importance of successful transfers of farms and ranches, as part of their commitment to agricultural economies and land retention. Public policies should encourage and support the timely transfer of farm businesses and properties in ways that assure a comfortable transition and meaningful legacy for the retiring farmer, and affordable opportunity for the next generation. Farm families should be able to obtain adequate, informed assistance from teams of advisors equipped with the full arsenal of transfer tools and methods. Special attention should be paid to families without farming heirs, the junior generation, women inheritors and socially disadvantaged populations. Specific recommendations include:

1. **Educate professionals.** Inform providers about succession issues and more innovative approaches to succession plans. Motivate advisors to work with the farming community on retirement, estate, and transfer planning. Provide support and reward professional training, especially in regions where agricultural services have been diminished.
2. **Build teams and service networks.** Foster local and regional cross-disciplinary professional succession planning teams that include attorneys, land use planners, financial advisors, and tax accountants. Encourage use of Internet-based planning tools and resources. Strengthen regional and national farm-transfer associations and networks.
3. **Build community awareness.** Educate community stakeholders, professionals, and policymakers about farm succession issues, challenges and resources. Engage community and economic development, municipal agency, civic, and conservation groups in supporting farm transfer. Emphasize the connection between farm entry and exit.
4. **Encourage and reward farm families to plan for succession.** Provide incentives and offer cost-share or other financial support for families to obtain planning assistance.
5. **Reward or prioritize farm operators with succession plans** who are applying to programs such as public and private purchase of development rights or farm viability programs.



6. **Examine tax laws** for barriers to intergenerational farm transfers and amend federal and states tax codes to remove them.
7. **Develop and promote better estate planning tools and models.** Find alternatives to the heavy reliance on farmland sales to fund retirement (e.g., pension programs to encourage exiting farmers to transfer sooner.) The USDA Commission on Small Farms recommended that the "USDA's Economic Research Service, legal experts, and financial experts should work together to design alternative methods for transferring farms from retiring to beginning farmers" (USDA 1998).
8. **Place special emphasis** on the needs of women inheritors, African-American exiters, and other SDA groups regarding farm exit, transfer, and retirement.
9. **Develop, improve, and strengthen programs** that help exiting farmers find and successfully connect with non-family successors.
10. **Research farm linking programs** to evaluate their successes and challenges and develop appropriate recommendations.
11. **Design programs aimed at retiring farmers** to educate them about tax laws and transition incentives. This is the group that holds the assets and needs the encouragement.

E. Case Studies

1. **Winge**: Farm family business succession over a long time period.
2. **Miller**: Multi-generation succession.
3. **Jamison**: Farm business succession between unrelated parties.
4. **Haynes**: Passing on the farm without an identified farming successor

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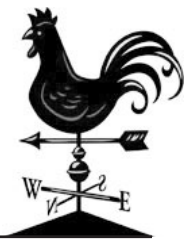

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IV. CONSERVATION AND STEWARDSHIP

A. Context

For purposes of this report, the terms "environmental conservation" and "stewardship" are used to broadly describe approaches to maintaining and protecting the natural resource base. In agriculture, these terms imply that farming and ranching practices ensure that land and related natural resources, such as soil, water, air, wildlife habitat, and plant communities are managed to avoid degradation and with care for future use. Conservation practices are specific methods of addressing environmental conservation concerns. The relationship between land tenure and environmental conservation, conservation practices, and stewardship deals with two related questions. The first is: What are the connections between land tenure arrangements and environmental conservation and stewardship practices on U.S. farms and ranches? The second is: How can environmental conservation and stewardship be fostered in farm access, tenancy, and succession processes?

Our town is voting to set up a revolving fund. We are trying to look at whatever moneys are gleaned through forestry or agricultural activities [on town land] and then put back into management of other conservation lands in the town.

—Public Landholder Focus Group Participant

The nation's small and medium-sized farms and ranches make up 80% of the agricultural land in the U.S. (USDA 2004, Table 56). Because these farms occupy so much land, the practices and attitudes of their operators are key in influencing agriculture's impact on the environment. Land tenure, meaning ownership and rental arrangements, also has a significant effect on agricultural stewardship practices (USDA 2004), as does the growing number of absentee landlords, meaning those who do not reside on the property (Hoppe 2006).

This report takes the position that conservation and stewardship of agricultural land and related natural resources is a public good, and that U.S. policy should foster attitudes and behaviors that improve conservation on working lands. Farm and ranch operators' tenure relationship to their land is believed to have a significant impact on their conservation attitudes and behaviors. Therefore, as a nation we need to understand those impacts and address conservation-related challenges related to how land is acquired, held, and passed on. In addition, we must promote policies, practices, and programs that support conservation practices by a range of agricultural actors, including entering farm and ranch operators, retiring farmers and ranchers, and non-farming agricultural landowners.

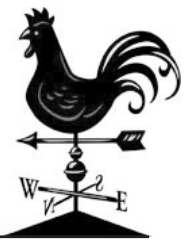
Conservation programs. Conservation programs refers to specific agri-environmental programs that "support environmental enhancement and reduce the potential for agricultural harm" (USDA 2007). These programs may be at the federal level, largely but not exclusively in the Farm Bill, or they may be at state or local levels. Farm operators may engage in a wide variety of specific conservation practices, whether or not they partake of government conservation programs.

My lease agreement [with my tenant farmer] specifies the land must be treated according to established soil conservation principles; can't cause erosion or mistreat the land. … One of my concerns is I haven't figured out … what to do with structures on the land… how much maintenance or repair work I should put into keeping up the structures. That was perhaps an oversight in our agreement.

—Non-farming Landowner Focus Group Participant

There are four major types of federal (USDA) conservation programs:

1. ***Land retirement*** programs such as the Conservation Reserve Program (CRP) and the Wetlands Reserve Program (WRP);



2. ***Working lands*** programs including the Conservation Stewardship Program (CSP), Agricultural Management Assistance (AMA), and the Environmental Quality Incentives Program (EQIP);
3. ***Land protection*** programs such as the Farmland Protection Program (FRP) and the Grassland Reserve Program (GRP); and
4. ***Compliance provisions*** for soil and wetlands conservation that require farmers and ranchers to meet some minimum standards of environmental protection on environmentally sensitive land as a condition of eligibility for many federal farm program benefits, including loans, farm commodity program payments, and disaster relief payments (USDA ERS 2007).

B. Issues: Factors Influencing Environmental Conservation and Stewardship Practices

A variety of interacting factors influence farmer and rancher decisions to adopt conservation and stewardship practices. They include:

1. Economics and economic incentives;
2. Farm operator education and attitudes;
3. Community norms, social ties, and influence of farm and conservation organizations;
4. Land tenure terms and tenancy relationships; and
5. Conservation program design and implementation.

1. Economics and economic incentives. Some of the economics related to environmental conservation and stewardship practices are relatively straightforward. For example, to be eligible for Farm Service Agency loans, farm commodity program payments, and disaster payments, farmers are required to adopt and enact conservation plans for environmentally sensitive lands (USDA ERS 2006). Being out of compliance with conservation provisions excludes a farmer from nearly all government payments. Other economic calculations are more complex and involve expenses and returns associated with participating in various government programs. Land retirement programs such as the Conservation Reserve Program (CRP) and Wetlands Reserve Program (WRP) appear attractive to some farmers, ranchers, and non-farming landowners because of the relatively low costs associated with enrolling land versus implementing costlier conservation practices (Hoppe 2006). The success of the CRP and WRP in some regions is primarily due to payments exceeding the potential income from farming the land. Across the U.S., the payment rate for CRP land varies according to local conditions. Without the economic incentive, farmers will not be likely to voluntarily enroll in these programs. In fact, in some areas, the payment rate is not seen as attractive and enrollment is low.

Similarly, a survey of farmers in the cornbelt states found that a majority of farm operators were not interested in enrolling their farms in the Water Quality Incentives Program (WQIP), a program designed to reduce nonpoint sources of water pollution. The farmers who were interested in enrolling wanted an average incentive payment that was four times the payment being offered through WQIP at that time (Kraft et al. 1996). These findings have implications for improving the appeal of conservation programs to operators and landowners. If a goal is widespread adoption of conservation programs, the economics must fit the farmer's expectations. Otherwise, there is little incentive to enroll.

In a study of EQIP in Michigan, results showed that when farmers became more involved in EQIP governance at the local level, they helped introduce modifications to the program that resulted in increased farmer participation in EQIP (Hoard and Brewer 2006). This finding shows promise for future attempts to increase conservation program participation by tenants and landlords.

One aspect of participating in government-sponsored conservation programs is that, on rented land, it may be difficult to determine who should receive payment from the program—the tenant or the landlord. This may vary from program to program (NRCS 2006). (See Conservation Programs, below.) On a more subtle level, tenants must calculate the cost and return of investments on land they do not own, while landlords ought to be considering the long-term economic gain from their, or their tenants', conservation investments. As one farmer in a FarmLASTS Project focus group stated, "Your soil is your IRA." With more landlords living farther away from their land and less connected to farming, more research is needed to understand whether such absentee owners are less likely to understand and make such conservation investments.

With respect to farm entry, more public and private programs are being launched to help beginning farmers. USDA has several

programs for beginning farmers, such as the Contract Land Sales Program, the new Individual Development Account Program, and various FSA loan programs. However, none of these programs links to or rewards conservation or stewardship practices per sé. Some USDA conservation programs offer specific economic incentives for beginning farmers to adopt conservation practices. For example, EQIP provides for a higher level of cost share for qualifying beginning farmers. In addition, a new "transition option" provision in the CRP allows landowners to receive two years of extra CRP rental payments on CRP land that is returning to production if it is rented or sold to a beginning farmer who uses sustainable grazing practices, resource-conserving cropping systems, or who transitions to organic production. While many programs do not reward stewardship, minimum conservation practices are required if a farmer seeks loans from FSA. Both beginning and experienced farmers must have a conservation plan and be in compliance with recommendations to be eligible for these loans.

2. Farm operator education and attitudes. Most studies find agricultural conservation and stewardship practices to be positively correlated with the education level of farmland owners and operators (Traore et al. 1998; Cole and Johnson 2002). Regarding attitudes, studies show that farmers who possess stronger attitudes about environmental stewardship make increased efforts to implement conservation practices with less dependence on technical assistance, government income-enhancing programs, or tax incentives (Lynn et al. 1988). Despite the stereotype that tenants do not treat their leased land with the same care as they would if they owned it, the research paints a more complex picture. In fact, anecdotal evidence suggests that some tenants take the initiative regarding conservation, based on their own attitudes and values. (See below for more discussion of the relationship between tenancy and attitudes, and also Case Study: Kupers)

We [installed drainage tile that] improved the [rented] land; this is something we can't get back. So we are trying to keep improving even on rented ground. ... We explain to the landlords what it needs and a lot of times the landlords are very understanding and they try to help with cost share.

—Women Landowner Focus Group Participant

3. Community norms, social ties, and influence of farm and conservation organizations. Community norms, social ties, and social organizations directly influence agricultural stewardship. A study of crop farmers in South Dakota and Nebraska found strong community norms regarding how leased land ought to be farmed, with operators' reputations as farmers being linked to conservation behaviors on leased land (Cole and Johnson 2002). Other studies have identified the importance of social factors in both presenting barriers to the adoption of more environmentally sustainable farming practices and to providing support for the adoption of such practices. Farmers' organizations such as the Practical Farmers of Iowa provide both social support and practical knowledge related to environmentally sound farming systems and can greatly influence operators' conservation practices (Bell 2004; Peter et al. 2004).

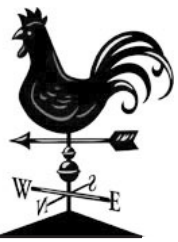
I hear constantly about tenants that aren't doing what the landlady wants. They don't want to do waterways, conservation. ... Sometimes the landlady doesn't even know what she wants but she knows something isn't right. ... Things don't get done the way they should. I think it's hard for women to get their land taken care of the way they want.

—Land Trusts Focus Group Participant

Researchers identified "social ties" as predictors of environmental decision-making by local landlords on the land they rented to operators. Notably, social ties played far less important roles in the case of absentee landlords (Constance et al. 1996). Women landlords may find it particularly challenging to obtain changes that they would like to see in the conservation behavior of long-time and neighbor renters. (See Case Studies: Monk and Smith)

4. Land tenure terms and tenancy relationships

"[I]f the American farm owner's 'conservation relationship' to his farm is weak, it is practically non-existent in the case of tenants."
—R.T. Ely and G.S. Wehrwein, *Land Economics* 1940.



"It is but an expression of human nature that renters and absentee owners are more interested in immediate returns than in future values." —Arthur H. Joel 1937 (Harbaugh 1992)

As these quotations indicate, the literature linking land rental to land and natural resource degradation dates back to the early half of the twentieth century. Known as the "tenancy hypothesis," the reasoning goes that because renters have no material stake in maintaining the productivity of the land beyond the life of the rental contract, they have little incentive to engage in long-term conservation practices (Lichtenberg 2007). Historically, studies have tended to confirm this hypothesis. However, recent research points to a more complex set of relationships between land tenure and environmental stewardship practices.

The relationship between land tenancy and agricultural stewardship is important because the percentage of farmland in the U.S. that is rented has remained fairly constant at around 40% for the past 50 years (USDA NASS 2004). Figures from the 1999 Agricultural Economics and Landownership Survey (AELOS) indicate that at the turn of the 21st century over 88% of farm landlords were non-operators (USDA NASS 2001) and the land they owned represented 42% of the nation's farmland (Hoppe 2006).

This whole concept of renting from landowners is so negative. Landowners don't want to invest in [tenants] because they don't see any profit. ... There should be some sort of policy—in order for you to rent out the land maybe if you could donate ever so much to put a cover crop in or add organic matter to the land… it is more of an encouragement to the farmer.

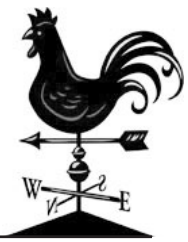
—Immigrant Entrant Focus Group Participant

Several recent studies confirm the tenancy hypothesis. One finds that owner-operators of corn and soybean farms are more likely to use medium-term conservation practices (e.g., grassed waterways) than are renters(Soule et al. 2000). Farmers in British Columbia who leased land engaged in "less sustainable" crop rotation, meaning they planted fewer legumes and perennials than farmers who owned their land (Fraser 2004). Fraser notes that because his results did not distinguish between renters by lease length, it is unclear whether longer-term leases could approximate landownership and promote conservation efforts for renters. In this same paper, he suggests that the negative conservation effects of tenants renting farmland could be mitigated by programs that provide financial incentives for renters to plant grasslands in their fields. The "insecurity of tenure" among Iowa farm tenants was found to be negatively related to the adoption of sustainable agricultural practices, defined as conservation practices and organic methods (Carolan 2005; Carolan et al. 2004)

Other studies raise questions regarding the tenancy hypothesis. One study estimated less soil loss on leased land than on owned land among a sample of Midwest crop farmers (Cole and Johnson 2002). Factors explaining soil loss often have social and economic roots because certain tracts of land are more marginal, and thus more affordable, for renting and/or beginning farmers (Heffernan and Green 1986). As well, conservation tillage may actually increase renter returns in the short-term under conditions where land value increases, while costs of machinery, labor, and fuel decrease (Magley 2003). However, no studies indicate that operators of rented land perform more conservation practices than farmland owner-operators.

Using farm data from the USDA 2001 Agricultural Resource Management Survey (ARMS), Lambert et al. (2007) found that "tenure," measured as a ratio of land owned to land rented, was positively associated with a farmer's decision to enroll acreage into land retirement programs, but not associated with deciding to participate in working land programs. Additionally, this "tenure" measure was positively associated with the percentage of land enrolled in CRP, WRP, or CREP, as well as the number of conservation activities adopted (Lambert et al. 2007). This research indicates that ownership status is a key variable in adopting conservation practices that are long-term and focus on land retirement. These authors also note that the decision to adopt conservation practices is made by an operator or landowner, yet the decision to participate in a USDA conservation program is not entirely theirs, since acreage restrictions and funds available to the NRCS often limit those who may enroll.

Soule et al. (2000) found that the use of conservation tillage as a short-term "residue management practice" was also affected by type of leasing arrangement, as posited by the tenancy hypothesis. Using data of 941 corn producers obtained from the 1996 ARMS survey conducted



by the USDA NASS (2001), results of this study showed that "cash-renters are less likely to use conservation tillage than owner-operators, while share-renters behave much like owner-operators in adopting conservation tillage" (Soule et al. 2000). Additionally, owner-operators were more likely to use medium-term practices (e.g. grassed waterways) than both share-renters and cash-renters.

As indicated in Section II, Access and Tenure, there is nothing inherent in tenancy that automatically results in inferior environmental stewardship. Rather, these problems tend to arise in response to the nature of the rental agreement and the landlord-tenant relationship. Most important is the economic reality that requires tenants to refrain from investing in practices that have a multiple year payback when they do not have long-term access to the benefits.

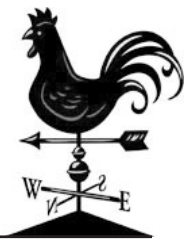
Length of lease. Short-term leases and the uncertainty associated with them tend to discourage long-term environmentally related investments or practices on the part of tenants Soule et al. 2000). This seems to be particularly true for tenants employing organic or other farming systems that require extensive and extended build-up time and investment (See Case Study: Jacobs) A sufficiently long lease period, usually considered to be five or more years, is important to making the conditions such that the tenant has time to recognize the gains from conservation investments (Bardhan 1984). This is especially true today for organic and many "sustainable" operations that are based on soil building, long-term rotations, and perennial plantings.

Cash-rent leases vs. share-leases. The literature is quite clear that under the right conditions, share rental agreements are superior to cash leases with regard to engendering heightened landlord involvement in environmentally related farm decisions and resulting land stewardship practices (Allen and Lueck 1992; Dubois 2002; Ervin 1982). Given the increased environmental performance associated with share leases, it is of concern that cash leases are three times more common than share leases in U.S. agriculture (USDA NASS 2001) with the proportion likely growing. Cash-rent agreements in Iowa between 1982 and 2007 increased from 50% to 77%, while share-leases decreased from about 50% to 22% (Duffy and Smith 2009).

Verbal leases. Verbal agreements are associated with a range of conservation practices. As indicated in several focus groups associated with the FarmLASTS project, when a high degree of trust and congruency on stewardship values exist between landowner and tenant, informal "handshake" agreements can support superior agricultural conservation practices. When such trust and congruency are lacking and when power relationships are not balanced, verbal lease agreements often prove unsatisfactory with regard to assuring conservation practices on rented land.

This is particularly true in the case of lease relationships involving female landlords and male renters. An important theme in a recent study of Iowa female landlords was their alienation related to key conservation practices on their farms (Carolan 2005). Many of these women were hesitant to initiate conversations regarding conservation practices on their rented land, especially when the rental agreements were not written. Similar gender dynamics are reflected in other literature (Gilbert and Beckley 1993) and in FarmLASTS project focus groups. In these sessions of non-farming landowners and women landowners, a prominent theme was the general preference by landlords for written versus verbal forms of agreements with tenants regarding conservation practices on rented land. (See Case Study: Smith.)

Written lease agreements with environmental stipulations. Short- and long-term written agreements may include enforceable environmental stipulations. Research indicates that these provisions are more prevalent when the landowners are public agencies, land trusts, or institutions. For example, AGREN, Inc. (www.agren-inc.com) is a consulting firm that provides information to private absentee landowners about what it terms "conservation leases." In another case involving private farming tenants on publicly owned lands, the lease agreements are for terms up to 60 years and involve land stewardship practices related to crop rotations, maintenance of organic matter, nutrient balances, and pest management strategies. (See Case Study: Cuyahoga.) The FarmLASTS Project's focus group of public, land trust, and institutional landowners agreed that the most challenging aspect of drafting leases with environmental stipulations is finding a balance between making sure their environmental goals are met while allowing farm tenants sufficient freedom and flexibility to introduce needed changes in their farming systems. (For examples of leases with environmental stipulations, see Higby et al. 2004 and www.agren-inc.com). Most private landowners are not likely to enter into a 60-year lease. As a consequence, promoting conservation measures in shorter-term rental agreements on privately owned land can be a



challenge. Nonetheless, environmental stipulations are not limited to long-term leases and many of the clauses can be adapted to private 5- to 10-year lease agreements.

5. Conservation program design and implementation. Whether the landowner or the tenant applies for and receives payments for federal conservation programs depends on the program. As a general rule, if the practice is short-term, the farm operator—who might be a tenant or owner—is the program applicant and receives the payments. A producer must meet eligibility requirements to receive program payments. The producer must be a "person" who is "actively engaged in farming." A landlord must contribute "certain commensurate contributions of land, capital, equipment, labor, and/or management which are at risk" to be considered as actively engaged in farming. As a general rule, a landowner leasing land on a cash-rent basis is not actively engaged in farming. On the other hand, a landowner leasing on a crop-share basis may be able to maintain farm program payments if his or her profits are based on production, are commensurate with his or her contributions to the operation, and are at risk.

Some public programs provide financial payment for ecosystem services and engage producers early in their careers.

Since CRP requires retiring land for at least 10 years, applicants to this program are usually owner-operators, or in rare cases, tenants with long-term leases with landlords who participate in the contracts. Thus, the length of operator's lease and the length of contract for conservation programs are among the deciding factors in enrollment. WRP applicants must be owners. Operators who rent land can apply for working land conservation programs, such as EQIP and CSP, but usually the owner must be on the contract, and the operator who implements the cost-share practices receives the payments (Haack 2008). The recipient must share the risk of production and have control of the land for the duration of the CSP contract period (NRCS 2006). Any landlords of the operation can, however, be contract participants (NRCS 2006). According to the NRCS, data do not exist for participation in working land programs and WRP by owners versus tenants (Haack 2008). The regulations prohibit spending public dollars on conservation measures that have a multi-year life but could be discontinued if the operator loses control of the land before the completed life of the contract.

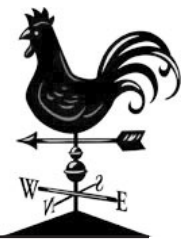
With respect to conservation compliance (sodbuster and swampbuster), the tenant or landowner is subject to compliance. If there is a violation, it stays with the land, making the land ineligible for other programs. Violations can also threaten other program payments to the tenant or FSA financing options. This impacts both tenants and landlords. A tenant, however, can bring ineligible land back into compliance. Since some tenants rent land from as many as 20 different landlords, it can be challenging for the farmer (and the regulating agency) to oversee the contracts (Smiarowski 2008).

C. Successful and New Models and Approaches

The following successful and new models and approaches may improve tenant and landlord conservation practices on the nation's agricultural land. This material is presented in the same order as the issues discussed above: 1) economics and economic incentives; 2) farm operator education and attitudes; 3) norms and social ties; 4) tenure terms and relationships; and 5) conservation program design and implementation. The models may or may not have been evaluated, and some of the ideas need further investigation and discussion.

1. Economics and economic incentives. "Flexible incentives" refer to environmental management tools that specify objectives but do not dictate how the environmental objective is to be achieved for farmers engaging in conservation practices (Casey et al. 1999; Batie and Ervin 1999). These authors suggest that increasing flexibility will aid farmers and ranchers in staving off the potentially high cost of adopting prescribed environmental technologies (Batie and Ervin 1999). This approach may be especially suited to tenancy situations, wherein the landlord has particular conservation objectives and leaves it up to the tenant as to how to achieve them.

Some public programs provide financial payment for ecosystem services and engage producers early in their careers. At the federal level, CSP is a good example. Under the program, farmers and ranchers are paid to maintain and actively manage existing conservation practices and



to implement additional conservation activities (Center for Rural Affairs 2009; USDA ERS 2007). Under the current Farm Bill, 5% of CSP acres are reserved for beginning farmers, giving new farmers a particular incentive to engage in conservation practices from the start.

On a previous parcel, we didn't have education about sustainable ag practices and the landlord didn't encourage it. This is the case for many. There is a serious lack of financial incentives for good land stewardship.

—Hispanic Entrant Focus Group Participant

EQIP allows up to 90% cost share for beginning farmers with 30% payment advance. These are potentially strong motivators to get farm entrants engaged in conservation from the start. The CRP transition option links beginning farmers with tenure options (purchase or lease) and conservation requirements.

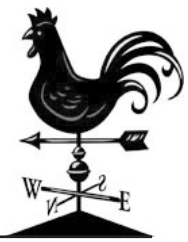
At the local level, an innovative program in Woodbury County, Iowa, offers up to $50,000 in property tax rebates per year to farmers who convert their farmland to organic production systems (Iowa Farmer Today 2008). Additionally, the County started an Organic Homestead Program to encourage organic farmers to locate in their county. Through this program, farmers can obtain loans to buy farms through a revolving fund established by the county (Iowa Farmer Today 2008).

2. Farm operator education and attitudes. In general, the more information operators have about on-farm conservation, the more likely they will be to practice it. NRCS provides outreach and technical assistance to operators and landowners about conservation programs. In many states, Extension programs provide information, education, and technical assistance to farmers at all stages of development. In the private non-profit sector, farmer training programs and farm trade organizations are strong sources of cultivating stewardship attitudes and behaviors. See for example, the Land Stewardship Project (www.landstewardshipproject.org), the Michael Fields Agricultural Institute (www.michaelfieldsaginst.org), and the Practical Farmers of Iowa (www.practicalfarmers.org).

In general, absentee and other non-farming landowners tend not seek or receive much information, education, or assistance regarding conservation and stewardship of their agricultural properties. In the public sector, NRCS serves all agricultural landowners. AGREN Inc. (www.agren-inc.com) is a lone example of a private firm that specializes in helping absentee landlords learn about and use government conservation programs. Its Center for Absentee Landowners (www.absenteelandowners.org) offers information about "conservation leases," government conservation programs, and conservation in general. Land For Good (www.landforgood.org) and the Glynwood Center (www.glynwood.org) are private non-profit organizations with programs to educate non-farming landowners about tenancy agreements and stewardship provisions in lease agreements. There may be a particular need to educate older landlords. For example, many older farmers grew up with the accepted practice of draining wetlands—"swamps," in their day—or planting multiflora rose. Today, we have a better understanding of the value of wetlands and the nuisance of invasive species, and follow different conservation practices. Yet some older and retired farmer-landlords still accept the older practices and would benefit from newer information about more recent practice recommendations.

At the turn of the 21st century, about 65,000 farms were managed by professional farm management companies (USDA NASS 2001). These companies offer a variety of services including lease, financial, risk management, and landowner education. They are important partners in the effort to improve and expand conservation on leased land. For example, the Farmers National Company (www.farmers-national.com) states that it "expects responsible soil stewardship on every managed farm, and seeks to instill a strong soil and water conservation ethic" in every one of its farm managers. See, for example, Hertz Farm Management Inc. (www.hfmgt.com), Northwest Farm Management Company (www.nfmco.com), and Agri Affiliates, Inc. (www.agriaffiliates.com).

An important theme from the research on women landlords is that they strongly desire information on conservation and stewardship practices aimed at providing them with more influence in their dealings with male tenants. A significant number say they don't know where to look for these programs or feel intimidated to pursue them (Carolan 2005). Educational and support programming such as offered by the Women, Food, and Agriculture



Network (2004) (www.wfan.org) is critical to strengthening women landlord's capacity to meet their conservation goals.

Sometimes, tenants educate landlords as to the advantages of conservation practices. Such education can be particularly persuasive when the conservation practices are associated with higher value crops or food products. (See Case Study: Kupers)

3. Community norms, social ties, and influence of farm and conservation organizations. A variety of "sustainable agriculture" non-profit organizations offer good examples of creating normative space that reinforces sound ecological farming/ranching practices. Examples include state-based organizations such as the Pennsylvania Association for Sustainable Agriculture (www.pasafarming.org) and the Practical Farmers of Iowa (www.practicalfarmers.org). Positive norms also can be fostered by business enterprises that place emphasis on—and provide education related to—"ecologically responsible" food production systems. Good examples are the Organic Valley Family of Farms (www.farmers.coop), Red Tomato (www.redtomato.org), and Country Natural Beef (http://countrynaturalbeef.com). Initial research found that social ties can enhance participation in environmental decision-making by local landlords, but less so for absentee landlords (Constance et al. 1996). Improved motivation and participation in conservation might result from engaging absentee and non-farming landlords in the social fabric of the farming communities where their land is located. One may argue that a retired farmer with tenants renting his or her farmland is likely have deep relations in the community, while the owner of farmland purchased as a second home has never been deeply involved in community affairs. The challenge is how to involve newcomers or landowners who do not live in the community in the local social fabric.

4. Land tenure terms and tenancy relationships. Written leases with longer terms offer the best incentives for conservation practices by farmers on land they do not own. Institutional and governmental landowners lead the way with examples of written, long-term leases with environmental provisions. Equity Trust (www.equitytrust.org), the Vermont Land Trust (www.vlt.org), the E.F. Schumacher Society (www.smallisbeautiful.org), the New England Small Farm Institute (www.smallfarm.org), and others have crafted long-term lease models and actual leases that contain stewardship provisions. These and other models can be used to educate private landowners.

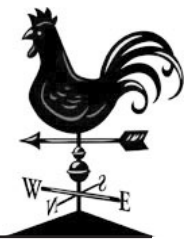
Share leases with cost-sharing for environmental renovations can positively impact environmental practices on rented land. The literature provides several examples of these leases (Allen and Lueck 1992; Dubois 2002). Such rental agreements are particularly effective when the costs for additional conservation measures are equitably shared between landowner and tenant (Erwin 1982; Derr 1987). Share leases face challenges, however, as more land rental agreements move toward cash rent in response to a number of risk-reduction and tax considerations.

Lease-to-purchase agreements can provide strong incentives for environmental stewardship practices by tenants who plan to someday be the landowner. Knowing that you will own the property someday changes the renter's approach from short- to long-term. (See Case Study: Guralski)

Clear and mutually agreed-upon environmental stipulations can benefit both the landowner and land renter. As mentioned above, AGREN Inc. promotes a "conservation lease" model that has provisions for the tenant to implement conservation practices on the land to protect the soil, air, water, plant and animal habitats. A conservation lease encourages cooperation between tenants and landowners to obtain and maintain needed conservation practices on a rented farm. These leases should address which party is responsible for which practice. Agreements should also clarify financial costs and returns in the case of practices considered capital expenditures, as well as reimbursement to the tenant for unrecovered costs due to conservation measures.

> *... everywhere I have to spend a lot of time to improve the soil. If I don't have a long-term plan, it looks like it is a waste of my effort to improve the land over there. I don't know when I need to leave.*
>
> **—Hispanic Entrant Focus Group Participant**

Several new initiatives connect environmental stewardship to farm entry and succession. Lease-to-purchase agreements with environmental clauses are an important tool for



these initiatives. (See Case Study: Guralski). The non-profit organization, New Spirit Ventures (http://www.leopold.iastate.edu/news/events/NewSpiritVentures.pdf), links socially conscious investors, farmland, and farmers who agree to use sustainable or organic farming practices. (See Case Study: New Spirit Ventures.)

As a religious order, environmental stewardship [of farmland] is a given, as it fits with "keeping the land sacred." ... Our role could be to provide a sacred agriculture where we re really promoting farming with the sustainable and mutual values and the way we treat the food and the land.

—Religious Landholders Focus Group Participant

5. Conservation programs

At the most basic level, successful promotion of conservation on farmland depends on a solid public policy foundation. Over the past several decades, the federal government has strengthened its position on, and devoted more resources to, agricultural conservation. Recent efforts at cross-compliance have likely been one of the most effective policy actions because of the strong economic incentives they provide for following conservation practices.

However, the policy connection with respect to land use policy, tenure, and their effect on farmland stewardship is not as evident. A report to the Secretary of Agriculture from the USDA Policy Advisory Committee on Farm and Forest Land Protection and Land Use (Rominger et al.2001) addresses threats to working land and land use policy at USDA and offers recommendations aimed at protecting land. Nowhere in the 73-page report are tenure, land ownership, tenancy, leasing, or land acquisition mentioned.

D. Recommendations

Policies and programs at all levels should recognize the relationship between land tenure, land use and conservation. Tenants and landlords should be encouraged to implement conservation activities on farm and ranch land through a combination of information, education, incentives and removal of social and economic barriers. Lease arrangements that foster longer-term security, equitable sharing of costs of conservation, and landlord engagement should be encouraged. Specific recommendations include:

1. **Develop a federal policy position** about land tenure and conservation that goes beyond "cross-compliance" requirements to shape conservation and land use policy within the USDA and other government agencies. Similarly, encourage states to adopt a policy platform that addresses conservation and agricultural land tenure. At minimum, such a policy framework would address the realities of tenancy and mitigate or reverse trends toward non-engaged landlords and short-term, cash leases.
2. **Support public programs** that provide financial payment for ecosystem services, particularly for those that engage producers early in their careers.
3. **Strengthen state programs** that reward landowners for leasing to beginning farmers by requiring environmental stipulations or incentives. Develop other creative opportunities to link farm entry with conservation.
4. **Encourage landowners** to make lease agreements such that the costs and risks associated with required conservation practices are not borne entirely by the tenant. This could be done by lowering the cash-rental rate or selecting a share-lease because it distributes risk. This may result in higher risks and costs for the landowner, but s/he should also understand the long-term economic, as well as social and environmental, return from maintaining or improving the resource.
5. **Tie FSA beginning farmer farm ownership loan programs to environmental stewardship.** This could take the form of preferential loan terms, debt forgiveness, debt for nature swapping, and/or advantageous terms for capital associated with transition to organic or sustainable practices. Similar features could be implemented by Farm Credit and Aggie Bond programs.
6. **Encourage and reward longer-term leases, share-leases, and lease-to-own agreements** because these foster and reward long-term conservation practices, and stewardship. Addressing and compensating costs of tenants' conservation practices may

lead to more conservation behaviors. A tenant is less likely to practice conservation unless additional costs are shared. Also, meeting conservation goals may restrict the tenant's management options and increase risks, resulting in lower yields or higher production costs.

7. **Link conservation goals with land access programs** such as Individual Development Accounts, introduced in the 2007 Farm Bill, which are essentially matched savings accounts to acquire real estate or other capital assets.

8. **Couple purchase of development rights programs and farm viability programs** with succession planning *and* conservation planning. Provide a financial incentive such as PDR or farm viability funds for both operator and landowner to encourage consideration of on-farm conservation and transfer.

9. **Continue and strengthen public and private informational and technical assistance programs to beginning farmers**. A core message should be responsibility for the land regardless of ownership. Additionally, educational and assistance programs could help tenants calculate realistic returns for conservation investments on rented land. Conservation planning can be integrated into curriculum and informational materials about leasing and land acquisition for beginning farmers, established farmers, landlords, policy makers and providers.

10. **Develop landlord education and assistance programs and services.** Encourage farm conservation planning by all landowners and tenants. Broad outreach by public and private entities such as USDA agencies, conservation organizations, farm management companies, and consultants should inform non-farming landowners about conservation planning and urge them to have a professionally designed plan. Focus on the particular needs, strengths, and preferences of women landlords.

11. **Promote and foster regular reviews of conservation activities and plans** by both tenants and absentee landlords returning to the farm/ranch to participate in annual monitoring meetings, using such times to strengthen social ties with the tenant and neighbors. Absent such direct landlord involvement, there might be a stronger role for farm management companies and non-profit "environmental consultants" (Dubois 2002) who would represent absentee landowners in such annual environmental monitoring.

12. **Encourage non-farming/absentee landlords to become more involved in conservation**. This might take the shape of providing them with information on ecologically responsible farming/ranching systems, offering examples of stewardship provisions in a lease, taking them on farm tours, and providing consultation with landlords experienced with conservation practices. Agricultural support organizations and consultants could offer absentee landlord educational workshops such as those offered by the Glynwood Center in New York State (www.glynwood.org). For example, NRCS State Technical Committees and Local Work Groups could reach out to and include non-farming landowners.

13. **Explore ways to overcome social barriers** standing in the way of environmental decision-making and stewardship practices especially for: a) absentee and other non-farming landlords; b) women landowners; and c) other special groups. Research and evaluate strategies to create or strengthen ties between absentee landlords and rural communities in order to improve conservation decision-making for their land.

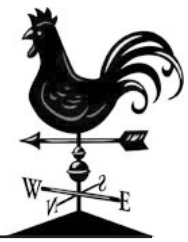
14. **Specify environmental stewardship practices in tenure agreements** and encourage regular review of conservation activities on rented land. Promote long-term agreements, ground leases, and agricultural easements that incorporate conservation and stewardship provisions.

15. **Research the interacting factors that influence farmer/rancher decisions** to adopt conservation and stewardship practices, including

    a. The relative influences of economic, social, and land tenure factors

    b. The relative influence and attractiveness of specific government programs for landowners and tenants

    c. The relative attractiveness of various conservation practices to tenants compared to landlords



d. The relative influence of region and farm enterprise type. Studies of tenure status and conservation, for example, tend to focus on only one type of farming system, i.e. corn and soybean farms. While this controls for some forms of variability, it is difficult to extrapolate to other farm types. More quantitative and qualitative studies should include at least two farming systems and perhaps more than one region to allow for comparison and increased generalization.

16. **Conduct research to explore and evaluate the influence of existing and new forms of lease agreements** on stewardship decisions and conservation practices. Focus on how long-term, ground, and share-leases with environmental stipulations can foster environmental practices. Address why share-leases have fallen out of practice and how they might be resurrected in forms appropriate for 21st century tenancy arrangements.

E. Case studies

1. **Monk**: Addressing a Northeast religious order's conservation goals.
2. **Kupers**: Tenant initiates conservation practices on rented wheat farm.
3. **Smith**: Struggles for a private landowner's environmental wishes.
4. **Guralski**: The Guralski-Martin incubator farm.
5. **Jacobs**: Swallow's Nest CSA and land access struggles.
6. **Cuyahoga**: Countryside Initiative in Cuyahoga Valley National Park, Ohio.
7. **New Spirit Ventures**: Conservation buyers lease to sustainable farmers.

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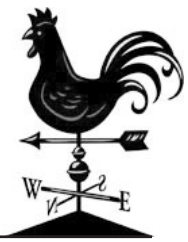

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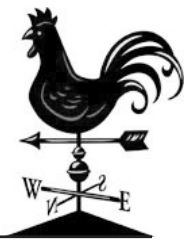


V. SUMMARY OF FINDINGS AND RECOMMENDATIONS

A. Farm and Ranch Access and Tenure

Research Findings

General Trends

- About two-thirds of the country's farm asset wealth is held in real estate. Farmland ownership is concentrated; four percent of owners hold nearly half the land.
- Seventy percent of farmland will change hands in next 20 years. Women owners are increasing; they may own up to 3/4 of farmland transferred in the next 2 decades.
- Absentee ownership is increasing. Eighty-eight percent of farmland owners are not farm operators. Of all farm landlords, over 60% are over the age of 60 and 40% are over 70 years old. Absentee landlords own 44 percent of the nation's farmland.
- Investor ownership is increasing. In 2002, 34 percent of farmland owners in Iowa were investors, double the proportion in 1989.
- In Western regions, water rights are integrally connected with land rights and must be considered in tandem. Water rights are treated similarly to rights to real property, and can be conveyed, mortgaged, and encumbered in the same manner.

1. Ownership

- Agricultural land is increasingly in the hands of older owners (60 + years), with owners under 35 accounting for an increasingly smaller proportion. Fewer young people are entering into farming, and of these even fewer are able to purchase their own land to farm.
- Farm real estate values more than doubled from 2002–2008. In some areas, values are nearly ten times the national average.
- Government subsidy programs inflate the cost of land. Much of the increase in government payments accrues to landlords in the form of higher rents.
- Cost, competition and availability of land are major challenges for most beginning farmers as is finding suitable property. Housing availability and costs are also obstacles for many entrants.

2. Succession and Transfer

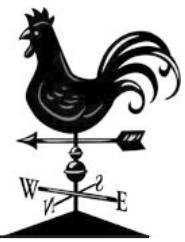
- Fewer entrants acquire farms from family members; more entrants come from non-farm backgrounds. "Traditional" succession—passing farms from older to younger generation within the family through purchase, gift, or inheritance—accounts for only about half of farmland acquisitions.
- Despite government loan programs, many beginning farmers report not being able to secure loans for real estate. Only 3 percent of farmland buyers are new farmers.
- Nationally, eighty-eight percent of farm landlords are non-operators, owning 40% of U.S. farmland. They are a varied demographic including: public; private; and institutional owners. The vast majority of land transfers and farm succession will happen in the private sector.

3. Tenancy

- Farm tenancy is not inherently bad. Under the right conditions, farm rental can offer beginning and other farmers a flexible, lower-cost alternative to purchasing land.
- Tenancy has always constituted a significant percentage of farm tenure. Since 1950s there has been an increase in partial and full tenancy. Full ownership tends to be more associated with smaller farms.
- Nearly one-third of principal operators rent some or all the land they farm. In general, young farm entrants generally own fewer acres than they rent.
- From 2000 to 2008, national average cash rents for cropland increased by 37%.
- Most rental agreements are short-term, usually annual. At least a third are verbal; a strong culture and laws pertain to oral leases. Short-term agreements are inherently less secure and discourage investment. Cash leases are three times more common than share leases, with the proportion growing.

4. Opportunity

- Key factors for successful tenancy are appropriate rental agreements and engaged tenant-landlord



relationships. Less traditional tenancy models (e.g., longer-term leases, ground leases and lease-to-own) and share-lease and flexible cash agreements hold promise for increasing security, shared risk, investment and stewardship.

- Private, public and institutional landowners can play key roles in making land available and engaging new models for tenancy and acquisition. In particular, public and institutional sectors can:
  - Provide new models for secure land tenure arrangements
  - Provide new models for environmental stewardship on rented land
  - Play key roles in farmland retention in areas of high land costs
  - Facilitate affordable access to farmland in areas of high land costs
- Education and assistance programs are essential to help entrants and other farmers make appropriate tenure choices, find land, and negotiate fruitful agreements.

5. Socially disadvantaged populations

- Socially disadvantaged populations face additional challenges acquiring farmland. These include persistent discrimination, cultural and language barriers, and fractionated heir property.

Policy Goals and Recommendations.

For a resilient structure of agriculture, both land ownership and tenancy—under the appropriate conditions—should be accepted and promoted as tenure options. U.S. agriculture policy should foster farm entry and viability by promoting:

a. Increased opportunity for access to farms and ranches;

b. Affordable options to acquire land and housing; and

c. Security of tenure.

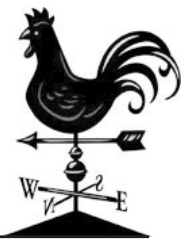
Furthermore, farmland owners should be educated and encouraged to offer tenure situations that are affordable, secure and promote conservation, and to actively participate in relationship with the land operator. Policies and programs should address ways to enhance access to agricultural land, land and farm housing affordability, and security of tenure.

Given the predominance of non-operator landlords, we need to engage private farmland owners of different kinds (e.g., absentee, women, conservation investors). Less traditional tenure arrangements offer fruitful models for access, security and stewardship, especially in areas of the country where land is particularly scarce and expensive.

1. **Articulate national policy objectives** for agricultural land tenure that will serve as a framework for USDA agencies and offices, programs, rules and resource allocation.
2. **Encourage state, county and local policy to address farm/ranch access, tenure, land use, and transfer.** Recognize and learn from regional differences. Implement state land use policy frameworks that address agricultural lands (e.g., conserve, make available, foster secure tenure). Encourage and promote innovative tools such as affirmative easements and transfer of farming rights.
3. **Conduct AELOS (scheduled for 2011) or enhance ARMS** to gather contemporary data on farmland ownership and tenure. Project and understand trends and impacts in land transfers in the next twenty years. Design so data users at the state and county levels can benefit.
4. **Promote more advantageous leases**. Educate about the benefits of written agreements. Encourage and reward more secure leases. Provide information, education and technical assistance to landowners and tenants to enter into longer-term (5 or more year) agreements and share-leases. Draw from non-agricultural leases (e.g., real estate, business) for models and best practices. Make share-lease models and regionally appropriate share formulas widely available. Change state policies to allow longer lease terms or assure alternatives for increased security such as rolling lease terms.
5. **Anticipate and respond to changes** in banking regulations and standards in response to economic conditions (e.g., additional requirements such as written leases as part of loan documentation).
6. **Educate and reward non-farming landowners.** Promote and provide resources for educational programming, outreach and assistance, particularly for absentee landlords. Encourage greater

involvement and investment, and more secure tenure agreements through tax incentives or disincentives and/or other measures. Encourage a special focus on women landowners and landlords. Encourage leases that promote conservation and stewardship.

7. **Integrate tenure considerations into business planning programs**. Address the lease versus purchase business implications; provide tools and modules.
8. **Promote farming and ranching on public lands** and remove barriers to secure tenure on public land (length of lease, ownership of improvements). Provide information, models and technical assistance to public land managers to encourage agricultural uses.
9. **Promote increased and appropriate use of loan programs**. Improve outreach to enhance use of FSA loan programs and the contract sales guarantee program. Insist on borrower training for beginning farmers seeking ownership loans. Encourage Aggie Bond programs in states that don't have or underutilize them.
10. **Offer tax and other incentives to landowners** who lease or sell their land for farming, drawing from models in Nebraska and Iowa.
11. **Help farmers find properties and landowners find farmers**. Obtain a solid understanding of how farm linking programs are addressing and might more effectively address this objective. Provide adequate public support for such services. Couple them with land acquisition readiness education and assistance. Encourage non-farming landowners to match their farmable properties with farm operators.
12. **Promote affordability provisions**. Add language such as the Option to Purchase at Agricultural Value (OPAV) to conservation easements to eliminate speculation and assure perpetual affordability for farmers on conserved farms.
13. **Address farmer housing**. Develop schemes to link housing and land; emphasize affordable housing for beginning farmers. Draw upon models and procedures from the affordable housing community. Foster multi-family, life estate and other housing scenarios that enable retired farm families to live on the farm.
14. **Encourage innovative land use and zoning** that prioritize and reward agricultural land uses such as farm-centric residential developments, cluster zoning with agricultural uses on set-aside land, etc.
15. **Address heir property** and fractionation; provide special assistance and programs for African-American and Native American farm and ranch holders.
16. **Consider and address water rights as they relate to land access, tenure and succession.**
17. **Address the specific challenges faced by socially disadvantaged populations** with respect to purchasing or renting land.
18. **Promote tenancy arrangements that help new farmers build equity** (e.g., share milking, ground leases, shared equity)
19. **Discourage farmland speculation**. Consider such innovations as a progressive capital gains tax (like Vermont) and socially responsible investing in productive land.
20. **Conduct research** in the following areas:
    a. **Non-operator farm owners**: Who are they? What do they need? What are the most effective ways to reach, educate and support them? Place special emphasis on women landlords and "socially responsible" (conservation) investors.
    b. **Farm Bill programs**: Evaluate new programs for their effectiveness in addressing land access and tenure.
    c. **Innovative models:** Evaluate state, local, institutional and private efforts and models (e.g., leases, housing affordability, equity financing)
    d. **Tax barriers and incentives**: What are the major tax issues for land access and tenure? What reforms and innovations would be beneficial?
    e. **Share-leases**: Research the trend toward cash leases and away from share leases. How might share-leases be modified to be more attractive in the 21st Century?
    f. **Current trends and projections**: Monitor and evaluate the impacts of the current recession on farm real estate values and farmland purchases.



B. Farm and Ranch Succession

Research Findings

General Trends

- Up to 25% of the nation's farmers and ranchers will retire in the next two decades.
- A substantial portion of the 87 million acres owned by the 42% of operators planning to either rent or sell their land will likely become available in the next several years.
- Older farmers are staying in farming longer than did earlier generations. A recent Iowa survey found that one quarter of that state's farmers do not expect to ever retire.
- Given the weighty financial and emotional considerations, older farmers often resist developing farm succession plans. A recent study found that 88% of farmers and farmland owners neither had an exit strategy nor knew know how to develop one.
- The smaller (in sales) the farm, the less likely it is to have a succession plan and less likely to have an identified successor.

1. Financial, tax, and legal matters

- Farm financial viability is an important pre-condition to a successful transfer from one generation to another. Exiting farm families must balance an adequate retirement income with making the farm affordable for the next generation.
- Retirement income is of particular concern to farm wives who typically outlive their husbands.
- The importance of taxes on the transition of the farm business is often overvalued. There are approaches and instruments to minimize tax consequences and address complex legal issues.

2. Identifying a successor

- Of farmers planning to retire only about 30% have an identified successor.
- While historically first-born male children were identified as successors, a growing percentage of farmers identify daughters as potential successors.
- The actual farm transfer mechanics are not very different whether the successor is a family member or not. The key issues are finding a non-family successor, building the relationship, and settling with non-farming heirs.

3. Transferring management

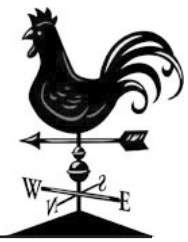
- The transfer of management of the farm operation is a critically important part of farm succession that is often overlooked—by farmers, researchers and service providers.
- The transfer of management is a process, not an event, which can involve positive mentoring and mutually rewarding shifts in responsibility or conflicts and power struggles.
- Across cultures, the more important the farm management decision, the less likely the senior operators are to hand over the decisions to their successors, and the longer they delay in transferring responsibility for those decisions.
- Effective succession planning begins well in advance of when the younger generation is expected to take control so managerial roles and legal ownership of the farm can be transferred gradually.

4. Addressing family issues

- The soft (social, family, interpersonal) issues are the hard issues. Both family and business goals must be articulated and addressed. The first step in initiating a successful farm succession is discussing the goals, wants, and needs of all parties involved.
- A survey of Iowa farmers found that nearly half had not discussed retirement with anyone.
- The transition into retirement is often experienced as a profound change for the exiting farm family that can involve loss of identity, control, and community status, as well as lifestyle changes, health and health care concerns, and residential choices.
- A key challenge for many exiting farm couples is how to treat heirs. It is important to distinguish equitable from equal treatment.

5. Obtaining assistance

- Succession planning is challenging because many farm families are disinclined to seek professional help.
- To be most effective, farm succession and transfer planning requires a team of professionals working in concert toward the farm family's goals. While a number of agencies, land grant universities and private groups offer succession planning assistance, help is uneven, scattered, uncoordinated and often hard to find.



Policy Goals and Recommendations

Public policies at all levels should encourage and support the timely transfer of farm businesses and properties in ways that assure a comfortable transition and meaningful legacy for the retiring farmer, and affordable opportunity for the next generation. Farm families should be able to obtain adequate, informed assistance from teams of advisors equipped with the full arsenal of transfer tools and methods. Special attention should be paid to families without farming heirs, the junior generation, women inheritors and socially disadvantaged populations.

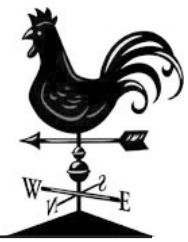
1. **Educate professionals**. Inform providers about succession issues and more innovative approaches to succession planning. Motivate advisors to work with the farming community on retirement, estate and transfer planning. Provide, support and reward professional training especially in regions where agricultural services have been diminished.
2. **Build teams and service networks**. Foster local and regional cross-discipline professional succession planning teams (attorneys, land use planners, financial advisors, tax accountants, etc.); encourage use of Internet-based planning tools and resources. Strengthen regional and national farm transfer associations and networks. Encourage business assistance centers and programs (e.g., Small Business Development Centers) to include farm estate/succession planning in their services.
3. **Build community awareness**. Educate community stakeholders, professionals and policymakers about farm succession issues and challenges. Engage community and economic development, municipal agency, civic and conservation groups in supporting farm transfer. Emphasize the connection between farm entry and exit
4. **Encourage and reward farm operators to plan for succession**. Provide incentives; offer cost-share or other financial support for farm families —especially those preparing to exit or in a certain age bracket—to obtain succession planning assistance. Offer succession planning assistance as an option or component in state business planning, farm viability, and other cost-share and grant-supported programs. Require a land tenure and succession planning course for an ag-related degree at publicly funded educational institutions. Replicate Canada's policy to offer interest and business fee rebates to farm families who develop a succession plan.
5. **Reward, prioritize or require succession plans** from applicants to programs such as EQIP, CRP, public and private purchase of development rights and state farm viability programs.
6. **Examine and evaluate tax laws** for barriers to intergenerational farm transfers and amend federal and states tax codes to remove them.
7. **Further develop programming** to support and educate about farm succession. Focus on the junior generation. Include non-family and non-ownership options.Emphasize and support effective management transfer.
8. **Develop and promote better estate and transfer planning tools and models**. Find alternatives to the heavy reliance on farmland sales to fund retirement (e.g., pension programs to encourage exiting farmers to transfer sooner).
9. **Place special emphasis** on the needs of women inheritors, African-American exiters and other socially disadvantaged groups regarding farm exit, transfer and retirement.
10. **Develop, improve and strengthen programs** that help exiting farmers find and successfully connect with non-family successors.
11. **Conduct research on:**
    a. **Farm linking programs** to evaluate their successes and challenges; develop recommendations
    b. **Applications of sharemilking model** to other commodities
    c. **Tax issues** that impact succession and transfer

C. Conservation and Stewardship

Research Findings

1. Economics and economic incentives

- Federal, state, and local programs provide financial incentives to landowners and tenants for land stewardship and ecosystem services, and engage producers early in their careers.
- Other economic calculations related to land conservation practices can be more complex as with the distribution of responsibilities and rewards between tenants and landowners.



- "Flexible incentives" approaches to private rental agreements can support the land stewardship goals and economics of both landowners and tenants.

2. Farm operator education and attitudes

- Education levels and attitudes of farmland owners and operators are positively correlated with agricultural conservation and stewardship practices.
- The more information farm and ranch operators have about land stewardship and conservation, the more likely they are to practice it.

3. Community norms and social ties

- Social ties can be important for environmental decision-making by local landlords but play less important roles with absentee landlords. Absentee and other non-farming landowners receive little or no education or assistance regarding conservation and stewardship.
- Sometimes tenants are more motivated toward conservation activities than their landlords; sometimes the reverse is true.
- Women landlords can find it challenging to obtain changes in conservation behavior of renters. They desire information on conservation, often to provide them with more influence in dealing with male tenants.
- Farmer groups and conservation organizations that provide both social support and practical land stewardship knowledge can significantly influence operators' conservation practices. Professional farm management companies and other providers are important providers of education for landowners and operators regarding land conservation and stewardship.

4. Land tenure terms and tenancy relationships

- The relationship between land tenancy and agricultural stewardship is important because over 40% of the nation's farmland is rented.
- The "tenancy hypothesis," which linked tenants to agricultural resource degradation is being replaced by a more complex set of relationships between land tenure and conservation practices. There is nothing inherent in tenancy that results in inferior environmental stewardship. Problems arise largely depending on the nature of the rental agreement and landlord-tenant relationship.
- Short-term leases and the uncertainty associated with them tend to discourage environmentally related investments or practices on the part of tenants. Verbal lease agreements offer a mixed picture with regard to conservation practices.
- Certain lease models foster on-farm conservation: share rental agreements; longer term, written lease agreements with clear environmental stipulations and cost-share provisions; and lease-to-purchase agreements.

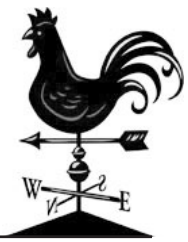
5. Conservation program design and implementation

- Owner-operators, landlords and tenants can and do participate in government conservation programs.
- Local participation by operators and landowners in the governance of federal and state conservation programs can increase farmer participation in those programs.
- Opportunities exist to link farm conservation practices to beginning and exiting farmer programs at all levels of government. Several USDA conservation programs offer incentives for beginning farmers to adopt conservation practices.

Policy Goals and Recommendations.

Policies and programs at all levels should recognize the relationship between land tenure and land use and conservation. Tenants and landlords should be encouraged to implement conservation activities on farm and ranch land through a combination of information, education, incentives and removal of social and economic barriers. Lease arrangements that foster longer-term security, equitable sharing of costs of conservation, and landlord engagement should be encouraged.

1. **Develop a federal policy position** about land tenure and conservation to shape conservation and land use policy within the USDA and other government agencies. Similarly, encourage states to adopt a policy platform that addresses conservation and agricultural land tenure. At minimum, such a policy framework would address the realities of tenancy and mitigate or reverse trends toward non-engaged landlords and short-term, cash leases.
2. **Strengthen state programs** that reward landowners for leasing to beginning farmers by including environmental stipulations or incentives.



Explore other creative opportunities at state and local levels to link farm entry with conservation.

3. **Encourage or require local, regional and state land use planning initiatives to include farm and ranch land access and tenure.** Promote awareness about these issues and how access, tenure and succession are integral to open space, smart growth, energy, transportation, and economic development planning at all levels.

4. **Encourage landowners** to make lease agreements equitable so that the costs and risks associated with required conservation practices are not borne entirely by the tenant. This could be done by lowering the cash rental rate or selecting a share lease that distributes risk equitably. This may result in higher risks and costs for the landowner, but s/he should also understand the long-term economic (as well as social and environmental) return from maintaining or improving the resource.

5. **Tie beginning farmer farm ownership loan programs** (FSA and IDA, Farm Credit and Aggie Bond programs) to environmental stewardship. This could take the form of preferential loan terms, debt forgiveness, debt for nature swapping, and/or advantageous terms for capital associated with transition to organic or sustainable practices.

6. **Encourage and reward longer-term leases, share leases and lease-to-own agreements** as these foster and reward sustainable agriculture, longer-term conservation and stewardship. Addressing costs of tenants' conservation practices may lead to more conservation behaviors. A tenant is less likely to practice conservation unless additional costs are shared or the tenant is assured repayment of an unexhausted value in case the lease agreement ends. Also, meeting conservation goals may restrict the tenant's management options and increase risks, resulting in lower yields or higher production costs.

7. **Couple purchase of development rights programs and farm viability programs** with succession planning and conservation planning. Provide a financial incentive (PDR or farm viability program funds) for operator and landowner to think in terms of on-farm conservation and transfer.

8. **Tie succession planning to placement of a conservation easement.**

9. **Tie access and affordability to farmland preservation goals and regulations.** For example, replicate successful examples of ag value resale limits in easements.

10. **Support public programs** that provide financial payment for ecosystem services, particularly those that engage producers early in their career. Research, develop and promote ways to value soil improvements achieved by tenants.

11. **Continue and strengthen public and private informational and technical assistance programs to beginning farmers.** A core message should be responsibility for the land regardless of who owns it. Additionally, educational and assistance programs could help tenants calculate realistic returns for conservation investments on rented land. Integrate conservation planning into curriculum and informational materials about leasing and land acquisition for beginning farmers, established farmers and landlords.

12. **Develop landlord education and assistance programs and services.** Encourage farm conservation planning by all landowners and tenants. Broad outreach by public and private entities (USDA agencies, conservation organizations, farm management companies, consultants, etc.) should inform non-farming landowners about conservation planning, and urge them to have a professionally designed plan. Focus on the particular needs, strengths and preferences of women landlords. Special assistance should also be extended to socially disadvantaged landowners and tenants. Target outreach and information to owners of potentially active agricultural land (e.g., estate, second home, recreational land owners).

13. **Get non-farming/absentee landlords more involved in conservation**. This might include providing them with information on ecologically responsible farming/ranching systems, offering examples of stewardship provisions in a lease, farm tours, and consultation. Agricultural support organizations and consultants could offer absentee landlord educational workshops. For example, NRCS State Technical Committees and Local Work Groups could reach out to and include non-farming landowners.

14. **Promote and foster regular reviews of conservation activities** and plans by both tenants and absentee landlords returning to the farm/ranch to

participate in these (annual) monitoring meetings, using such times to strengthen social ties with the tenant and neighbors. Absent such direct landlord involvement, there might be a place for farm management companies and non-profit "environmental consultants" (Dubois 2002) who would represent absentee landowners in such annual environmental monitoring.

15. **Urge conservation land trusts to become more involved in farm and ranch land protection**; provide land trusts with technical support. Encourage protection of smaller parcels by land trusts and public programs, especially in urban and peri-urban areas.

16. **Explore ways to overcome social barriers** standing in the way of environmental decision-making and stewardship practices especially for: a) absentee and other non-farming landlords; b) women landowners; and c) other special groups. Research and evaluate strategies to reconnect absentee landlords to rural communities and to encourage their conservation decision-making for their land.

17. **Specify environmental stewardship practices in tenure agreements** and encourage regular review of conservation activities on rented land. Promote long-term agreements, ground leases and agricultural easements that incorporate conservation and stewardship provisions.

18. **Research the intertwining factors that influence farmer/rancher decisions** to adopt conservation and stewardship practices:

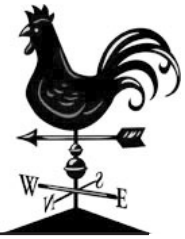
    a. The relative influences of economic, social, and land tenure factors;

    b. The relative influence and attractiveness of specific government programs for landowners and tenants;

    c. The relative attractiveness of various conservation practices to tenants compared to landlords; and

    d. The relative influence of region and farm enterprise type. Studies of tenure status and conservation, for example, tend to focus on only one type of farming system, i.e. corn and soybean farms. While this controls for some forms of variability, it is difficult to extrapolate to other farm types. More quantitative and qualitative studies should include at least two farming systems, and perhaps more than one region to allow for comparison and increased generalization.

19. **Conduct research to explore and evaluate the influence of existing and new forms of lease agreements** on stewardship decisions and conservation practices. Focus on how long-term, ground, and share leases with environmental stipulations can foster environmental practices. Address why share leases have fallen out of practice, and how they might be resurrected in forms appropriate for 21st century tenancy arrangements.



CASE STUDY: MONK

Addressing a Northeast religious order's conservation goals

Highlights

- Religious Order as Non-farming Landowners
- Tensions Regarding Conservation Goals

Non-farming landowners and tenants sometimes clash over the environmental stewardship of farmland. The unique aspect of the following case study is that the landowner is a monastic society of monks who have recently come together to implement a policy that would, among other things, prevent the use of agrochemicals on the land they rent out. This story illustrates the complications that can ensue when congenial longstanding social ties are threatened by disagreements over caring for the land. It also describes the steps this religious landholding organization took to mitigate the situation.

Jacob Metz is a brother in a monastic society in the Northeastern region of the U.S. Jacob is a member of the order who is responsible for the facilities and grounds. The buildings at the monastery include a church, chapel, living quarters for members, and a guesthouse. The monastery is located in an urban setting, very close to a large university. On that site, the monks have gardens where they grow flowers and herbs Three miles south, the Brothers own 144 acres of property given to them as a gift in the 1950s by a family who originally acquired the land in the late 17th century through a land grant created by King Charles II. Since this time, the land has been continuously used for pasture or crops.

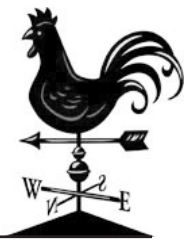
As the facilities and grounds manager for the monastery, Jacob is involved in making decisions about the agricultural land they own and, specifically, the lease arrangement. Since the 1960s, the Brothers have leased most of their 144 acres of agricultural land to a neighbor, [John] a 60-year-old dairy farmer whose family has lived in the neighborhood since the late 17th century. [John] and his brother milk a small herd of 30 Holsteins, and their farm is about 1.5 miles from the Brothers' land. The Brothers lease the land to [John] for $100 per year. As part of the lease arrangement, [John] provides mowing services for the Brothers' larger meadows that are not farmed, which helps to keep the forest from encroaching onto the fields. [John] grows feed corn on these two lots, along with some alfalfa. The Brothers' attorneys require them to draw up a lease which [John] signs each year.

Professional Resources Used

In the last couple of years, the community of Brothers has started talking about long-range plans for their property. They have had conversations with state agencies about selling the development rights to ensure that the land is preserved for agricultural use. In this region of the country, pressure to develop housing has resulted in the loss of agricultural land. The Brothers want to preserve their land and its environmental qualities. Three years ago, they hired Steven, an environmental property manager. Steven is very savvy with regard to conservation issues on agricultural farmland. A small-scale organic farmer himself, Steven played an important role in educating the Brothers about conservation. He encouraged the successful expansion of the kitchen garden and the Brothers hope to soon become completely self-sufficient.

Jacob says that with the help of Steven, "The [Brothers] community agreed to a policy that we would no longer allow artificial herbicides or fertilizers. We wanted to encourage organic farming on our land." The community of Brothers passed the following policy:

"Over the next three years, it is our intent to institute a consistent policy of sustainable stewardship of the Society's land, encompassing all horticultural and agricultural activities. The focus will be on reducing petro-chemical fertilizer, herbicide and pesticide use; eliminating the culture of all genetically modified organisms; and, replacing these techniques with more ecologically sound horticultural and agricultural practices such as composting, crop rotation, cover crops and use of chemicals and soil amendments comparable to those used on certified organic farms."



By having Steven on the staff, the Brothers have been more aware of the activities on their rented land. Steven had been aware that their tenant, [John], was planting genetically modified (GMO) corn and spraying herbicide. Last year, Steven went to [John] to renew the lease, and brought him a copy of the new resolution that the community of Brothers had passed. The terms of the lease were the same, but there was a separate document explaining that they wanted to help him to transition to organic practices. In response to the new policy, [John] said he did not believe in organic farming. The Brothers offered [John] a three-year timeframe to transition to organic. If [John] did not choose that direction, the Brothers would not renew the lease.

With regard to this difficult situation, Jacob said, "[John] has been a good neighbor and we have had cordial relations over all these years. He's been a good friend, he's neighborly, and he's provided us with a lot of cow manure for our gardens. I was really taken aback when I heard about [John]'s response." Jacob explained that he felt especially sad that since the Brothers' difficult meeting with [John], they learned that [John] and his brother sold their herd. Jacob felt that, unfortunately, their new requirement seemed to be yet another blow to [John] as a farmer.

Planning for the Future

If the Brothers cease renting to [John], they would like to rent their land to local organic farmers. They would conduct a soil analysis and begin a program of soil building with a new tenant. In their current lease with [John], there are some general conservation stipulations. For example, it requires [John] to mow the meadows in the spring and fall. After the three-year period has elapsed (or if [John] decides to terminate earlier), the Brothers will make changes to the lease, including the main stipulation that will mandate the practice of organic agriculture on their land. They realize that they will need to find a new tenant who is harmonious with these requirements, and that they will need to institute their own monitoring procedures to ensure that their desires for land management are complied with.

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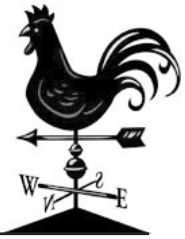

CASE STUDY: JAMISON

Farm Business Succession Between Unrelated Parties

Highlights

- Relocation to another state
- Work-in transfer model

Kevin and Amy Jamison were raised in rural Idaho and have relatives who are farmers. Kevin had worked summers and part time for his uncle who owns a small crop and livestock farm. Kevin and Amy are in their late twenties and have three children. They had always talked about wanting to farm and to raise their children on a farm. After reading an article in a regional farm magazine about linking programs that provide entry opportunities for new farmers, they registered with several such programs and also began contacting the Extension services in several states for help to identify opportunities to start farming.

Kevin was employed on the local county road maintenance crew. Amy took the lead in investigating opportunities that looked promising. Both are from large families belonging to the same church. Both families were supportive of their desire to farm. It was important to Kevin, Amy, and their families that the children be raised in the same religious tradition as the one in which they were raised. Therefore, the availability of a church in their denomination was a requirement for any farm entry opportunity.

The Jamisons prepared a letter of introduction and a resume listing their education, experience, and goals. These accompanied their applications with several farm linking services and were sent to several promising leads. As a result, an opportunity in Illinois was discovered. Several preliminary telephone conversations eventually led the Jamisons to visit the farm of William and Carol Russell. The Russells operated a 1200-acre grain and livestock farm near Mattoon, Illinois. The livestock operation is a 30,000 head farrow to wean operation and the pigs are produced for a local integrator under a written production contract.

The Russell farm is a family operation that has been in Carol's family for more than 150 years. William and Carol took over the grain operation from Carol's father when her parents passed on. Being the only child, she inherited the farm. William began the hog operation and grew it to the business that it is today. The farm business has been successful enough to support the Russells and the families of three hired employees.

After the Jamison's visit, conversations proceeded in earnest to plan for their move from Idaho to the Russell farm. William and Carol agreed to provide housing for the Jamison family; a house not far from the hog operation was located and purchased. While William is several years from retirement, the plan is to work Kevin into a position of management with partial ownership of the hog facility within the next five years. Kevin and Amy have some capital to invest into the operation and because the livestock facilities will provide a faster return than the farmland, it was decided that the initial investment will be in the livestock facility. The speed at which the management of the hog operation will transfer is tied to profitability and how quickly Kevin learns the management. Benchmarks are being developed along with the transfer of equity as a part of Kevin's compensation package.

Kevin and Amy are now in Illinois, and Kevin is helping to manage the Russell's operation. The Jamisons have been warmly received into the community. They are active in the local church and are participating in several civic organizations. A regular schedule of weekly production meetings has been initiated and semi-annual succession meeting are planned with the first to take place in February of 2009.

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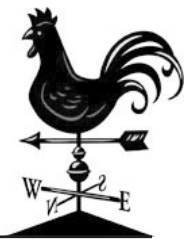

Challenges

- Locating a farming opportunity outside the family
- Meeting farming as well as personal and family (e.g., church) goals and preferences
- Getting established in a new community
- Learning to operate a large confinement livestock operation
- Finding appropriate off-farm employment for Amy
- Agreeing upon definite dates for the transfer of management and William's retirement

Recommendations

- The Jamisons emphasize the importance of their initial discussions on the future they pictured for their family.
- The Jamisons emphasize the importance of a good presentation—resume, good interpersonal skills, references—when connecting with potential matches.
- The Russells recommend that there be adequate scale and profit to finance a transition plan and that there is adequate funding for retirement.
- Both parties agree that it is important to monitor the transfer of the management and the progress toward mutually agreed upon bench marks.
- Both parties recommend the use of a neutral person to facilitate the introductions and initial discussions between the farm and the successor.

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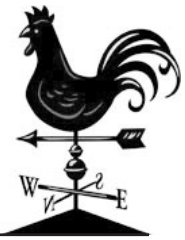


CASE STUDY: MILLER

Multi-Generation Succession

Introduction. Denny Miller grew up on a farm in Smallville, IA. As he grew older he became more active in the farming operation—taking care of the livestock as well as the business side. Denny always knew he wanted to be a farmer. His parents, Tom and Theresa, wanted Denny to attend college before returning to the farm.

During college, Denny met Mary Williamson, a bright young woman from two counties away. After college, Denny and Mary married. They rented a house a few miles from Denny's parents and were able to rent some ground to farm. Denny provided labor for his dad in exchange for the use of machinery. He already had some cows that he kept with his dad's herd and began feeding hogs as well. Mary began teaching at a nearby school; her salary helped their cash flow.

Soon Mary and Denny had three children—Chris, Kevin, and Kathy. Their farming operation grew along with the family. Denny had been building his cattle herd and was now running them separately from his father. The hog operation and their land base were growing.

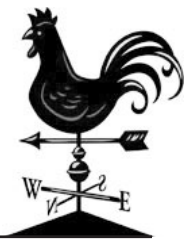
Part I—Mary and Denny, age 45; Kevin, age 21; and Denny's parents, age 66

Mary and Denny Miller have now been farming for twenty years. Getting started farming in the 80s was no easy task, but somehow they made things work. Over the years, they purchased 80 acres of pasture ground, 80 acres of hay ground, and 80 acres of crop ground for $1,000/acre, $2,000/acre and $3,250/acre respectively. Mary and Denny also built a small house and stopped renting a house from the neighbors.

The Millers rent an additional 920 acres of crop ground and 160 acres of pasture. Denny plants a 50/50 corn and soybean rotation and owns about $325,000 worth of machinery. The combine and planter are half-owned by Mary and Denny and half-owned by Denny's dad Tom, who still farms in the area. Denny knows that his most profitable enterprises are the corn and soybeans, but he most enjoys raising cattle. Denny decided to quit raising hogs and focus more on the crops and cattle a few years ago. Currently, Denny has 85 head of mature cows and 10 bred heifers. He kept more heifer calves this year in anticipation of his son Kevin's return to the farm. They have a small feedlot in which they keep each year's calf crop. Denny still plays a large role in his parents' farming operation as well. Tom and Denny always work together.

Kevin is now 21 and has made a commitment to the farm. He has expanded his own cattle herd to 10 cows and has his eye set on a tractor he wants when he finishes school. Chris and Kathy, the other children, do not appear to be interested in farming. Now that Kevin has decided to come home, Mary and Denny are trying to build a business plan to help keep the farm successful for many more generations. A large part of their business plan is determining how to transfer assets down the road and preparing estate plans in case something happens to them. These are some of the issues Mary and Denny are facing as they plan for transition:

- Mary and Denny want Kevin to be able to keep the farm together if something would happen to them before Kevin has time to build up enough of his own assets. At this point, Kevin hasn't put any more time into the farm than Chris or Kathy; they all helped in high school and came home frequently during college. How is it fair to give enough of the assets to Kevin that the farm would continue if something unexpected happened to Mary and Denny?
- Denny is confident that Chris and Kathy wouldn't want any of the machinery or cattle, but would have an interest in keeping the land. Denny knows that while his children are still quite close to the farm (they haven't been gone for over 5 years), they will be more likely to want to keep the land and not sell it. However, the farm's current net worth is about $1,250,000 and an equal share of the farm to each child would be worth just under $415,000. The money might be enough



motivation for Kathy to want to sell in order to move to California some day or to help Chris build a house.

- If Chris and Kathy would want to sell their share of the farm, Kevin will have little equity, other than his share of the inheritance, to negotiate purchases with the bank. Even with beginning farmer loans, Kevin probably wouldn't be able to keep enough of the farm to continue it.
- If something unexpected happened to Denny, Kevin would still be able to rely on Mary, his grandparents, and the local agronomist at the coop to help manage the farm.
- Kevin would need some liquid assets to help pay for seasonal hired labor as Denny and Grandpa Tom took care of most of the labor. Grandpa Tom will be physically unable to help with some activities in the next 10–15 years.
- Denny is still expanding his business and acquiring assets at this point, so there will be debt to inherit as well.
- What would Mary's role be if Denny passes unexpectedly? What would be Denny's role if Mary passes unexpectedly?
- How can they divide the inheritances fairly and still ensure Kevin will have a farm business to continue?

The following are some planning tools, examples, and ideas that Mary and Denny may choose to utilize when planning for the future of their farm business.

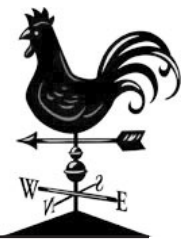
Property Ownership is a good place for Mary and Denny to start when planning for the future. The way deeds to land are titled and how other property is owned will determine how it can be transferred in the future.

- If Mary and Denny own real property (land and fixtures) as tenants in common, each owner's respective share will pass according to his/her will. For example, Mary and Denny each own a half-interest in the 80 acres of pasture. If Mary dies first, she can choose to will her half-interest in the land to Denny or any other person of her choosing.
- If Mary and Denny own real property as joint tenants with the right of survivorship, the deceased owner's share will transfer immediately to the other owner upon the death of the first. If Denny passes first, the land will transfer automatically to Mary, and Denny's will has no effect on the land.
- Bank accounts can also be owned in joint tenancy or as payable-on-death accounts.
- It will be important for Mary and Denny to change the title to any other vehicle or personal property if they would like it to be kept out of one person's personal estate. Spouses may transfer property between each other without tax consequences.

Life Estate is an interest in real property for the length of your life, but no longer. The deed will say, "to A for life, then to B." A has full rights to own and manage the land during his/her lifetime, but cannot transfer land at death because it must go to B. A may sell the life estate; however, the land will revert back to B at A's death, even if A sold the interest. Spouses may choose to give each other life estates in land and then name an heir to inherit that land when the second spouse dies. Each spouse owning half of the marital property and using a life estate to let the surviving spouse retain control of the property is a common way to help avoid estate tax because the property will only go through probate once.

For example, Mary and Denny own the 80 acres of pasture as tenants in common, each having a one-half interest. Denny's will bequests his half-interest in the 80-acre pasture to his wife Mary for life, then to his daughter Kathy. If Denny dies first, Mary has complete control over the 80-acre pasture through her own half-interest and her life estate in what was Denny's half-interest. When Mary dies, the life estate will terminate, and Kathy will automatically receive Denny's half-interest in the pasture. Since Mary's will mirrors Denny's, it will say, "to my husband Denny for life, then to my daughter Kathy. Denny's life estate is irrelevant and Kathy inherits the other half-interest from Mary and now has full ownership of the entire parcel.

Equal Distribution of Assets—Mary and Denny may choose to split up the farm completely equally. The



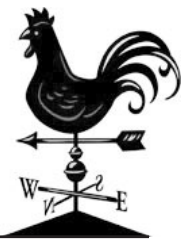
simplest way to do this is for all the property to go to the surviving spouse at the death of the first. After both spouses are gone, the heirs would hold an estate auction to sell all current farm assets. Heirs may also want long-term assets included in the sale. Remaining cash after covering debts is then split equally among heirs. Using this technique provides for the most equal treatment of the children because they are all getting one item—cash—and the same amount. However, depending on the strength of the on-farm heir's separate operation and how much of the parents' farm was still being used to support the successor, this may put the successor's farm business in jeopardy. An estate distribution plan that puts one heir out of business is not necessarily fair—although it is equal.

Life Insurance is an excellent tool used to increase liquid assets at death and provide for fair treatment of heirs. If the estate is not the beneficiary and the deceased is not the owner of the policy, the proceeds of the policy will remain separate from the probate and taxable estate and the beneficiary will automatically receive the funds tax-free.

- Mary may choose to purchase a life insurance policy on Denny to cover funeral expenses, debt, taxes, and fees on the estate. As the sole beneficiary of the policy, she would not be obligated to use the proceeds to pay estate debt, but may choose to do so. Denny could purchase a similar policy on Mary, or the couple could choose a policy that only covers the last spouse to die.
- Kevin may choose to purchase life insurance policies for one or both of his parents. He could then use the proceeds to put a down-payment on property that his siblings inherit and wish to sell, giving his siblings the cash that they want and need and enabling Kevin to keep his farm asset base.
- Mary and Denny may purchase life insurance policies on themselves and name their off-farm heirs as beneficiaries. This is an equalizing tool that allows Mary and Denny to give more of the farm business assets to Kevin while still providing Chris and Kathy with an equitable cash inheritance.
- Life Insurance estimates for a non-smoking 45 year-old male in good health run from $350/year for a 10-year term policy with $100,000 of coverage to $13,000/year for $1 million coverage through a universal life policy. Note that there are significant price differences among policies. It is important to shop around for a good rate and terms.
- Purchasing life insurance does have its practical drawbacks. For example, Mary and Denny could decide to purchase a $500,000 policy to be paid to the three children in equal shares. In 45 years, $500,000 won't have the buying power it did when they purchased the policy. Their asset value and net worth will have probably increased far more than the policy; however, purchasing a larger policy would have been cost prohibitive at the time.

Business Entities—Mary and Denny may consider switching the farm business from a sole proprietorship to a partnership, limited partnership, family limited partnership, S or C Corporation, or a limited liability company. This is not the right decision for everyone. However, in some cases creating a new business entity may assist in managing the farm and facilitating asset transfer to the next generation. Business interests may be bought, gifted, or earned during the life of the owner. At death, owners transfer their shares or interest in the business instead of specific business assets.

- General partnerships are easily created and both parties participate fully in management of the business. Because all parties share in the control and decision making, all parties also share liability for the others' actions. Profits and taxes flow through the business and are reported on individual partner's tax returns.
- Limited partnerships and family limited partnerships function in much the same way as a general partnership except one or more partners has limited managerial control and limited liability for debts of the business. Usually, general partners are the founding generation and the on-farm successor, while limited partnership interests may be given to family members who do not



wish to manage the business. Both types of partners will report income from the partnership on their individual tax returns based on their percentage ownership of the partnership.

- Corporations are much more difficult to create and also very difficult to dissolve without liquidating the entire business. Corporations keep business liabilities completely separate from personal liabilities. C corporations are taxed independently of the shareholders and profits must be transferred through dividends, which are also taxed at the shareholder level. This is sometimes too costly to manage. Profits and tax liability flow through to individual shareholders in S corporations. Majority shareholders have managerial control, whereas minority shareholders have little, if any, decision-making ability.
- Limited liability companies (LLCs) include some aspects of partnerships and some aspects of corporations. Profits and taxes flow through to individual member tax returns just as they do in a partnership. Members are sheltered from business liabilities in the same fashion as a corporation because the LLC is a completely separate business entity. Management of the business can be structured as simply as a partnership or as complexly as a C corporation, depending on how the membership agreement is written. One major disadvantage of an LLC is that sometimes government payment limitations may be affected.

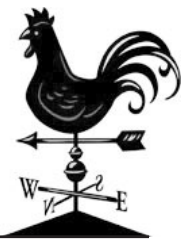
Buy-Sell Agreements are contracts *obligating* one business owner to buy all or a portion of the business upon the death of another business owner. Proceeds from the sale compensate the heirs and provide liquid inheritance while allowing the surviving business owner to maintain control of his or her livelihood. These agreements are intended to create a smooth transition of the business when one owner passes and allows all owners to determine how the business will continue. Financing the purchase is the most challenging aspect of the agreement. Here are some suggestions for Mary and Denny:

- Kevin or the farm business itself may purchase a life insurance policy on Denny's life to provide the cash. Whether Kevin, Mary and Denny, or the farm business entity pays for the premiums each year is flexible.
- Mary and Denny may write in the agreement that Kevin will inherit one-third of Denny's interest in the business and must buy out Chris and Kathy's respective thirds. Kevin uses the proceeds from a life insurance policy to make a significant down-payment. Kevin then has 15 years to make annual payments for the balance due to his siblings.
- The family can choose to put a cap on the maximum dollar amount of the business Kevin is obligated to purchase.
- Mary and Denny may choose to allow Kevin to purchase the business at a discounted price, 25 to 30% lower than fair market value, for example. This takes into account the decrease in fair market value of a family business due to lack of marketability and lack of ownership control.
- When Mary and Denny reach retirement age, they may begin selling or gifting assets to their children in order to decrease the overall value of business assets controlled by the buy-sell agreement.

Buy-Sell Agreements are also commonly used in case of divorce, retirement, or disability, but are much more difficult to finance in those instances.

First Option to Buy—This is a common clause in a will with an end-result very similar to a buy-sell agreement. With a buy-sell agreement, you MUST purchase the business because you are obligated by contract. However, with an option agreement, you may or may not decide to purchase the business. Most commonly, assets are distributed evenly among heirs in a will. The will then names one heir who has the right to purchase the property from the other heirs. This may take place immediately or at the time the other heirs wish to sell. There is often specified period of time in which the sale must take place. The will can either specify that the property will be sold at fair market value or set a specific sale price. If the specified sale price is well below fair market value, there may be tax implications.

- Example: Mary and Denny now own a total of 240 acres of land. Half of the land, or 120 acres, is included in Denny's estate. Denny wills 40 acres to each child, but gives Kevin the



option to buy Chris and Kathy's land at a set price of $3,000 per acre outright. Note that even if the land appreciates to $8,000 per acre, Kevin can still purchase for only $3,000 per acre.

- A First Right of Refusal is a similar option that provides the buyers with additional security that some day they will get the land. A First Right of Refusal is a legal document that limits the seller's sale options. Kevin could purchase the option that guarantees he will have the right to purchase the property IF Mary and Denny ever decide to sell it. Kevin would most likely have to match another buyer's offered price.

Trusts can also be valuable estate planning tools. A trust is a separate legal entity that has the power to hold assets. Trusts are sometimes used in place of a will because they decrease or avoid the need for probate and are more difficult to contest than wills. A trustee is the person who is appointed to manage the trust assets in the best interests of the beneficiaries. There are a wide variety of trusts, but one of the most common types is a Revocable Living Trust.

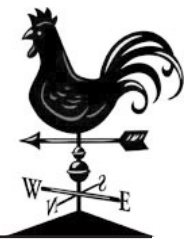
- Mary and Denny put assets into a revocable living trust by changing the deed on land and by change of title or bill of sale for other property. Because the trust is revocable, they can terminate it at any time until the death of one spouse. Mary and Denny can elect to be both the trustees and beneficiaries during their lifetimes and will still have the same control of their business assets as if they were still owned by them personally. In some cases, their tax return will even be the same.
- Since Mary and Denny's assets are no longer in their name, but held under the trust, the assets will not go through probate when Mary and Denny die. The trust will live on and Mary and Denny will have already determined who will be the new trustee and beneficiaries. Most likely Kevin will be the trustee and have control of the assets. The interest and earnings from the property in the trust will be distributed as instructed in the trust instrument to the beneficiaries: Chris, Kevin, and Kathy. Essentially, Kevin will have control over the farm and Chris and Kathy will maintain an interest in the farm without managerial capabilities.
- Chris and Kathy will not have access to the property in trust, and will not be able to sell their interest, until a specified time as decided previously by Mary and Denny. Mary and Denny will decide when to instruct the trustee to pay out the principal assets to their heirs. The trust may even give Kevin the option to purchase Chris and Kathy's share of assets from the trust over a period of years.

Unequal Bequest of Essential Business Property—Some assets may be absolutely necessary for Kevin to inherit if the farm business is to survive, especially if Kevin hasn't had the time to acquire a separate set of farm assets. Machinery and equipment, grain trucks, livestock buildings, breeding livestock, small tools and shop items, storage on the home farm are possible examples of critical items. In order for the on-farm heir to be able to afford to buy the farm and to keep the business sustainable, some of these assets may need to be passed on to the business heir regardless of equity.

Part II—Mary and Denny, age 65; Kevin, age 41; and Denny's parents, age 86

Mary and Denny have now been farming with their son Kevin and his wife Grace for 20 years. With Kevin's help, the farm has changed and grown. For example, last year Kevin convinced Denny to buy auto-steer. It was expensive, but they have been able to plant later into the night, decrease their fuel bills, and decrease overlap in nitrogen application and when field cultivating. This has also made a big difference because Denny and Kevin are now farming over 2,000 acres of crop ground. Denny bought another 240 acres of crop ground, is renting another 80 acres, and is farming Tom's ground for him. Kevin is renting about 720 acres of crop ground. Their machinery has gotten larger as the row crop operation has increased, and Denny no longer shares equipment with Tom but has begun buying equipment with Kevin.

The cattle herd has also changed. Denny has decreased his herd to about 75 cows, but Kevin has significantly increased his to about 125. They've invested in some high quality Angus bulls and cows and market



most of their animals locally as Certified Angus Beef. Kevin has purchased about 200 acres of hay and pasture ground and bought Tom's tractor, mower, and baler a few years ago.

Although Kevin and Denny discuss the markets daily and each has input, Denny usually makes the call on when and where to sell the grain. Denny manages the agronomy part of the row crop operation and Kevin takes charge of the hay crop and helps manage Denny's cattle herd. Kevin and Grace run their cattle separately for the most part and do the paperwork and pay bills for the land that they have bought in the past 20 years and the leases under their name.

Mary is not teaching anymore, but she still pays the bills and does all the paperwork for the farm. Mary also loves to spend time gardening and babysitting Kevin's several young children. Although Denny can still be found in the tractor all year around with Kevin, he would like to slow down a little by decreasing livestock chores. Denny wants to keep about 40 cows and begin working with landlords to transfer some of his cash leases into Kevin's name in the next 5 to 10 years.

Mary and Denny want to revise their estate plan now that their farm has expanded and to reflect Kevin's years of labor and help managing the farm. Their goals are to treat their children as equally as possible and ensure that Kevin will be able to continue farming by compensating him fairly for his help building the farm. They know that if they treat their children completely equally, Kevin's contribution to the farming operation will go unrecognized. The way they divide the farm will have a huge impact on Kevin's future. Mary and Denny love each of their children equally and they don't want Chris and Kathy to be treated unfairly.

Mary and Denny's retirement plan is income from the land they own and a small amount of IPERS from Mary's teaching. They do not have other off farm investments. Kevin doesn't have a retirement plan either. He has been making investments in land and cattle, just as they once did. Chris and Kathy each have retirement plans through their work. The transition plan will need to provide retirement income for Mary and Denny and not jeopardize Kevin's retirement years.

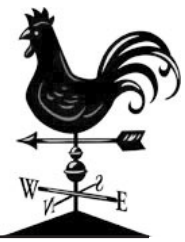
The following are some planning tools and strategies that Mary and Denny may choose to use when planning for the transfer and the future of their farm business.

Increased Compensation for Management and Labor—At this point, Kevin has worked alongside Denny in the family farming operation for over 20 years. Mary and Denny may decide that they have been compensating Kevin adequately for his years of work already. However, Mary and Denny may decide to compensate Kevin for his work after their death.

They know that Kevin's presence has enabled them to continue to grow in a way they wouldn't have been able to without additional help. Denny realized that he wouldn't have bought an additional 240 acres at age 52 without knowing Kevin would be there to continue to make the payments if something happened to him before the loan was paid off. Mary and Denny also realize that if Kevin weren't around, they would have needed to hire additional labor and a chemical applicator. Mary and Denny decide to compensate Kevin for his management and labor by giving him net worth that he helped to create.

Using an Excel worksheet, Mary and Denny determined that their estimated net worth when Kevin joined the farm was $1,091,980 and their current net worth is $2,830,064, for a total increase over the last 20 years of $1,738,084. Mary and Denny estimate that Kevin has contributed about 30% of the labor and management on their farm in the last 20 years.

The increase in net worth is largely attributable to the increase in value of farmland. This is something that Kevin's work had no impact on, so the increase in value of previously held farmland should be distributed equally to all heirs. However, Mary and Denny decide to give 30% of the increase in other business assets and 30% of the value of farmland purchased due to Kevin's presence directly to Kevin. The other 70% increase in value and the original value of the business which is attributable to Mary and Denny's hard work is divided equally.



Gifts—Mary and Denny may decide to decrease the size of their estate

during their lives by making gifts to Kevin, Chris, and Kathy. Each individual may make a gift of $12,000 per person per year without being subject to a gift tax. Therefore, each year Mary and Denny can make a combined gift of $24,000 to each of their children. If they wish, Mary and Denny can gift an additional $24,000 to their children's spouses for a combined gift to each couple of up to $48,000 per year.

- Gifts can also be combined with the sale of stock in a corporation. For example, Denny has an S-Corporation "DMCorp" that holds the machinery, livestock, and crops and buys seed, feed, chemicals, and fertilizer. Denny is the sole owner of all 2000 shares of stock worth $300.00 each. Denny can discount the shares to a value of 75% of the fair market value ($225) and give Kevin 2%, or 40 shares, of the corporation each year (40 x $225 = $9,000) since the gift falls below $12,000.
- Gifts of land are generally not feasible. Each acre gifted must have the deed transferred into the recipient's name. An appraisal may be necessary and the donor must give up complete control of the gifted parcel.

Life Insurance Policies—are still excellent transfer tools as discussed above, however life insurance will be considerably more expensive at age 65. Some forms of life insurance will be no longer available at certain ages or are likely to be cost prohibitive. For example, for a non-smoking 65 year-old male in good health, premiums can run from $650 per year for a $100,000 10 year term policy to $12,000 per year for a $500,000 Universal Life Policy.

Buy-Sell Agreements/First Options to Buy—are also important now. Kevin, the on-farm heir, will have a much larger business that he must purchase under a buy-sell agreement, but will also have had a chance to increase his own net worth and gain wealth separately from his parents. It will be important not to obligate Kevin to purchase more than he can handle financing. Denny and Kevin may want to put a purchase price on the farm or discount the farm to 75% of the fair market value. Using a first option to buy will keep options open for Kevin and not force him to purchase assets he can't afford.

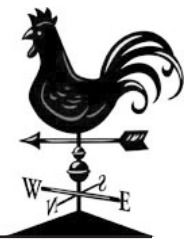
Corporate Shares—If part of Mary and Denny's farm is in a corporation, LLC, or partnership, their wills direct distribution of their shares. Shares may be distributed evenly or unevenly as seen fit. The by-laws of the business entity may stipulate that shares cannot be sold to anyone outside the family. They could also stipulate a sale price of the stock or interest in the business. There is a lot of flexibility in transferring shares, but there are drawbacks as well. Non-farm heirs may now have voting rights and encumber the on-farm heir's management of the business. Non-farm heirs may be disgruntled with the inability or difficulty selling or dissolving the business.

Part III—Mary and Denny age 77; Kevin, age 53; and Denny's mom, age 98

Mary and Denny have had an emotional 10 years. Grandpa Tom passed away at age 89, and Mary's father died at age 85. The aftermath of Tom's death has made Mary and Denny appreciate the time they've taken to discuss their plans with their children. Mary has spent much of her energy taking care of her mom. She runs errands, cleans, and often cooks and does laundry for her. Denny and Kevin maintain her lawn and do small repairs on her house when needed. Mary and Denny recently moved Denny's mother to a nursing home as she is struggling with memory loss.

On a happier note, Kevin and Grace's daughter Jessica and future son-in-law are discussing returning to the farm. Jessica would like to continue to sell insurance on the side and learn to manage the bookkeeping. Josh would be involved with the day-to-day farm labor.

Denny has continued to be involved with the crops and is thankful that Josh and Jessica will be around to help Kevin because his back can't handle the tractor like it used to. Over half of Denny's cash leases have been transferred to Kevin's name. Denny still rents about 320 acres and owns 320 acres of crop ground, 80 acres of hay, and 80 acres of pasture. Kevin is now purchasing the new machinery. Denny has kept only 25 head of cows. Kevin has completely taken over the hay crop operation and provides Denny with hay for his cows from Denny's hay ground.



In exchange, Kevin keeps the extra hay that Denny doesn't need. Kevin also makes most of the management decisions for the row crop operation. He markets grain for both families, determines inputs for all fields, and maintains the machinery.

Mary and Denny continue to struggle with how to best split up their assets among their three children fairly, while still ensuring that Kevin and his family will have a successful farm business when they are gone.

The best farm business transition plan is one that does not take place at death, but starts during life. Since so much of farm business assets are not liquid, cash is always limited. If non-farm heirs are to be given liquid assets as inheritance, something will need to be sold to provide for that cash. What can be sold without jeopardizing the farm business? How much debt can the on-farm heir incur without jeopardizing the entire farm business? These questions must be realistically asked and answered when determining how to distribute the farm business assets. What is more important, having a farm business that will continue to thrive in the future or distributing assets as equally as possible?

Lease Arrangements—The current leasing arrangement is that Kevin receives 40% of the crop on land owned by Denny and farmed by both. Now that Denny is starting to retire and the farm is paid for, Mary and Denny may consider changing the lease. A lower than market value cash rent or a one-third/two-thirds share arrangement with Kevin receiving two-thirds of the crop and making all chemical, fertilizer, and seed payments are both options. Kevin should be using the extra income to begin purchasing parts of the farm from his parents, saving for retirement, or saving it to use as a down payment if his siblings decide to sell their inheritance. Note: Mary and Denny must be careful if they decide to switch to a cash lease because it may have income tax consequences due to not being "actively engaged in farming."

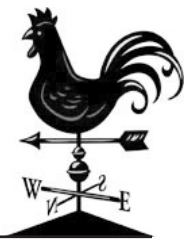
Salary—If Mary and Denny still have cash rent leases in their name that Kevin handles, if Kevin takes care of their cows, or if Mary and Denny are receiving an income stream based on Kevin's labor and management, they may want to give Kevin a salary or a percentage of gross income as a management fee. Kevin should be compensated for the time spent managing his parent's farm after they retire and are no longer helping because time spent on the parent's farm is time that Kevin can't spend on his own farm. Again, if Mary and Denny don't have the liquidity to pay Kevin a salary, he should be compensated with a larger share of the assets when the farm is transferred to the next generation.

Contract Sales—Mary and Denny no longer need the physical assets, but they do need an income stream from the farm. Couples may choose to sell their land or other assets on contract. In a traditional sale of land, Kevin would take out a loan from the bank, Mary and Denny would get a one-time lump sum payment, and Kevin would pay the bank annual sums. In a contract sale, Kevin makes annual payments over a designated period of time to Mary and Denny, bypassing the bank. Kevin has full rights to the land while payments are being made, but does not gain title to the land until payments are made in full. Kevin will gain full title to the land without fighting with siblings because it will be paid for. Mary and Denny will have a steady stream of income for their retirement years.

Several adjustments may be made to this arrangement. Mary and Denny may choose to decrease the amount of money Kevin will need to pay each year using their combined $24,000 annual gift. Mary and Denny can also write provisions in their will that waive additional payments after their deaths, giving Kevin full title to the land. If Mary and Denny need help doing other things and don't need the cash, contracts for sale of land can be written in exchange for services. Services may include transportation to doctor's visits, mowing the lawn, homestead upkeep, cutting hay, or checking cows.

Note: Mary and Denny may incur significant capital gains tax if they have a low basis on the property. Furthermore, the property must be sold at fair market value or the IRS will consider the decrease in value a gift and tax accordingly.

Growth in Net Worth—Mary and Denny may decide to give Kevin a larger share of the farm than his siblings based on his continued labor and management over time.



They may use the net worth valuation spreadsheets and determine that a certain percentage of the growth of the farm is directly attributable to Kevin's hard work and dedication. Now that Mary and Denny are slowing down more and are semi-retired, Kevin's contributions are substantially higher than they were when Denny was managing the farm full time.

Part IV—Mary, age 90; Kevin, age 66

Denny passed away at age 86. He was in fairly good shape until his stroke. After Denny passed away, Mary missed him terribly. Her health started declining rapidly as well. Now she needs help with just about everything from washing laundry to cooking meals. Kevin and Grace also take her to town regularly for doctor, groceries, and prescriptions.

Mary still owns half of the land and has a life estate on the other half. Mary and Kevin have a one-third/two-thirds crop share arrangement. The cows are gone and Kevin uses all the buildings, grain bins, machine shed, and shop on the home farm. Kevin still manages the entire row crop operation, including paying bills for both families, marketing all the grain, and determining inputs. He also received Denny's machinery when he died.

Mary and Denny owned the house in joint tenancy, so now Mary owns the entire house and buildings on the homestead. Mary wants to leave the house to Kevin because he is using the buildings and grain bins. She also wants to compensate Kevin and Grace for their time spent caring for her. She knows that if Kevin and Grace weren't so willing to help out, she would probably need to go into assisted living or even a nursing home.

Every tool that has been discussed thus far is still highly relevant except life insurance. If Denny had used any trusts previously, those would now be irrevocable. The most popular will be changing of lease arrangements and gifts.

Compensation for Personal Care—Mary doesn't have the cash to pay for nursing home care or to compensate Kevin and Grace for their help. She decides to compensate them with an increased share of the farm when she passes away. Mary determines that her annual personal care is worth $6,038 per year. Kevin and Grace have already provided care for three years and Mary knows how difficult caring for an elderly person is since she cared for her mother. If Mary lives for another year, the care to date will be worth just over $25,000 if you calculate interest. If Mary lives for another five years, the care will be worth almost $51,000. Mary knows the homestead is worth much more than $25,000 or even $51,000 but the value to her of not being in assisted care is priceless. She decides to give Kevin and Grace the home farm with all the buildings and note specifically that it is intended to be payment for their years of personal support at the end of her life. Mary could have also used the cost of nursing home care per year or the cost of nursing home insurance as a basis for what Kevin and Grace's help is worth to her.

Farm Management Compensation—At this point, Mary no longer participates in any part of the farm business. Kevin takes care of her personal and farm financials, including paying bills and marketing her grain. Kevin arranges for fertilizer and other improvements on the land. They take care of the buildings at her house, mow the yard, and clear snow. Mary may choose to compensate Kevin for this as well. She could pay Kevin a salary for management, pay Kevin a percentage of the gross income as a management fee, or simply increase his percentage share of the inheritance accordingly. She may also choose to use the provided spreadsheet to estimate what Kevin' s assistance is really worth and increase his share of the inheritance accordingly.

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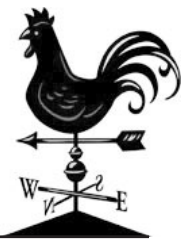


CASE STUDY: WINGE

Farm Family Business Succession Over a Long Time Period

Highlights

- Farm entry strategy based upon “sweat equity”
- Farm transition over an extended period

Rob and Linda Winge began farming in New York in the early 1970s. Their dairy operation was profitable for several years, but then they realized they’ have to expand the operation to maintain profitability. It was also apparent that the cost of such an expansion was a limiting factor, and the increased risk was more than either Rob or Linda was willing to accept. Because they both wanted to continue farming and raise their children, Megan, and Alan, on a farm, they decided to seek other farming opportunities.

After several months of searching, they located a farm in Northeast Iowa and relocated there. The purchase of the Iowa farm was financed in large part by the sale of the farm in New York. The Iowa farm is a corn-soybean farm. There were no livestock facilities on the farm, no dairy production in the immediate area, and no local market for milk production. Several years after purchasing the farm Rob established a farrow-to-finish hog operation. This enterprise provides a regular source of income to the farm business.

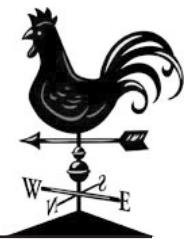
Rob and Linda continued to operate the farm through the 1970s, and as a result of having a low debt to asset ratio were able to survive the farm debt crisis of the 1980s. It was during the 1980s that their son Alan began to express interest in returning to the farm. Megan, who was several years older than Alan, had always provided labor on the farm when needed but never expressed an interest in farming as an occupation. While attending college, she met and married an engineering student and moved to New Jersey.

Rob and Linda were excited about the prospect of Alan’s continuing the farm family business they had established, but were concerned that he might have better opportunities in other professions. During his junior year, Alan reaffirmed his desire to return to the farm family business and Rob and Linda began serious plans for Alan’s return. The Winges attended a farm family business succession seminar at Iowa State University in Alan’s junior year. During the summer, Alan returned to the farm and worked alongside his father. It soon became apparent that adding “business partners” to the father-son relationship was difficult.

The spring semester of Alan’s senior year, the family again attended the farm business succession seminars because, as Rob said, “I listened to all the wrong things.” This time, Rob concentrated on learning the *process* of developing a succession plan and gave less attention to the details of business entities and tax consequences. After Alan’s graduation and return to the farm, the family began the planning in earnest. They reviewed the materials from the seminar and talked with neighbors in Iowa and former neighbors in New York who were involved in farm business successions. Additionally, they met several times with specialists from Iowa State University and kept Megan and her husband advised concerning the farm succession plans. The family celebrated Alan’s marriage to Lisa, whom he had met while attending ISU.

Ultimately, they developed a fifteen-year plan that began with Rob selling Alan a one-half interest in the farm machinery. Alan paid for his half of the machinery through taking a reduction in take-home pay and applying that money to the purchase price. With this first step in place, the Winges implemented the next step of having Rob continue to operate as the senior partner. Concurrently, with Rob’s guidance, Alan began assuming the management of the hog operation. As a part of the plan, as Alan’s responsibility and competency increased, his pay also increased, so he was able to accelerate the payment of the debt on the machinery.

During the second phase of the fifteen-year plan, Rob and Alan were equal partners and shared responsibility for farm business decisions. During this period, Rob gradually turned over more of the decision-making responsibility to Alan. Alan made the initial decision and discussed it with Rob. Rob continued to pay the bills



and used that as a way of monitoring the financial condition of the business and the effectiveness of Alan's decisions. As time passed, Alan's discussions with Rob concerning his decisions were less and less contentious and more in the nature of informing Rob of a decision. Because Rob continued to pay the bills, he was aware of and could discuss any decision with Alan.

During the last five years of the fifteen-year plan, Rob began to withdraw from the management of the farm business, including developing a strategic business plan. It was during this period that Rob and Alan began discussing plans for Rob's retirement. These plans are still being formulated. Further, Alan has begun planning for the eventual transition of the farm to his children.

Challenges

- Working out parent-child dynamics within the business.
- Seeing the succession as a long-term process.
- Transferring management; the senior farm operator letting go.

Lessons Learned

- Importance of getting help and guidance to design and implement a transfer process.
- Good communication is essential to making any transfer successful.

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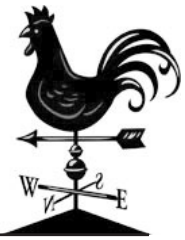


Cattle Ranching on Public Lands in the Southwest

Highlights

- Older operators
- Public land
- Renting from multiple landowners
- Long-term agricultural lease of public lands through local, state, or federal governments
- Environmental protection/regulation stipulations on public land

Leland Sheldon (Bill) Brake, outgoing president of the Arizona Cattlemen's Association, ranches in the Southwest. He owns several small parcels of land adjacent to public land that he leases for grazing. For example, one parcel consists of 40 deeded acres adjacent to 20,000 acres of U.S. Forest Service land in Eastern Arizona. He has leased this land for the past 15 years or so. However, Brake is not currently grazing any cattle on that land. He runs around 400 head of cattle on another 10,000 acres in Southeastern Arizona, where he has ranched for about 10 years. Over 8,000 of those acres are public land. The state of Arizona leases him a third of that land and the federal Bureau of Land Management leases about two-thirds of that land to him.

Brake, who is 65 years old, has been ranching approximately 35 years. He has two partners—one for each of the two large parcels of land where he ranches. Both of his partners are in their early to mid 60s. Bill's wife Linda, age 64, is also involved in running both ranch sites.

Brake obtained his deeded land through direct purchases. For example, he bought the 1,200 acres he owns in Southeastern Arizona from a wealthy landowner who is also a rancher. He heard about the availability of that land through a mutual friend. He obtained start-up money from an institution that loaned money on cattle. Such cattle loan companies are present in most large livestock markets.

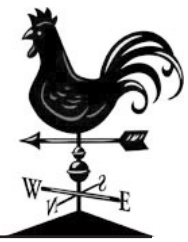
According to Brake, it is customary in this part of the U.S. for a rancher to purchase land, with a minimum purchase size, frequently ≥ 40 acres, and get lease access to adjacent public lands that are administered by the local, state, or federal government. The purchased property comes with the right to graze on the public land within a set number of "animal units." These animal units limit the number of animals that can be grazed on the public lands to avoid overburdening the land. For example, Brake's Southeastern Arizona property comes with a lease of over 8,000 public land acres and 200 animal units, meaning that he has the right to graze 200 head of cattle on those acres.

Challenges

Following government environmental regulations may be the biggest challenge for ranchers on public land. Ranchers can manage those lands and make needed improvements, such as a well or fence, provided they receive prior government approval. Regulations are intended to ensure that no damage, e.g., environmental degradation or harm to endangered animal species is likely to result from the rancher's actions.

Brake stated that dealing with regulations associated with these large parcels of public land is par for the course, "There's always going to be something, and then you have to manage around that. So, in my particular case I can't graze cattle during a certain time of year because when the yucca blooms the long-nosed bats have to be able to get the nectar." "If you want a fence line…you have to get it cleared by environmental agencies to be sure that you don't put posts into what could be an Indian burial ground." A government agent comes to the property to examine the proposed changes, e.g., a fence or water line, and does a physical environmental and biological assessment.

Additionally, Brake notes that, "It's very difficult to find cowboys anymore" now that it is so tough for Mexicans to immigrate. His land in eastern Arizona is going unused because without assistance running it, he would lose too many cattle to mountain lions to be profitable.



Advice to Others

Despite the fact that ranchers using public land have certain constraints, Brake insisted that public land ranching is still very much like ranching in general, stating, “I can do it; I just have to manage it differently because it’s public land.” He says that it isn’t difficult to avoid most of the issues that might raise agency red flags, “If you’ve got any brains whatsoever, you don’t go putting a fence through an Indian burial ground.” Brake feels that there are great opportunities for new public land ranchers and that working well with public agencies and universities and being a good land steward are the keys to success.

Ten-year leases provide public land ranchers with stability, but Brake cautions that politics do enter into ranching. With administration changes, there may be changes to the number of animal units allowed on a given lease plot. A new administration might decrease the number of animals allowed to graze on leased public land. Or a large predator could be added to the endangered species list, perhaps resulting in higher cattle kills. According to Brake, this means that politics directly impact ranchers’ incomes.

Lessons Learned

- Ranchers willing to work within government regulations can gain access to land for grazing.
- Access to public lands can benefit individual ranchers, as well as provide stewardship over lands that are a public good.
- Ranchers gain access to large plots of land that otherwise see little usage, thus allowing public lands to become more agriculturally productive.
- Federal and state regulations address multiple environmental concerns.

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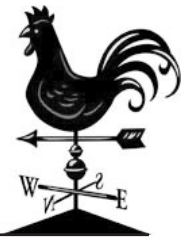


CASE STUDY: DODSON

An African-American Farmer in the Southeastern U.S.

Highlights

- Black farmer
- Racial discrimination
- Access to land

This case study is an example of the impact of racism and discrimination on some farmers. David Dodson is a 45-year-old black farmer in northeast Louisiana. A few years ago, he farmed 1,500 acres and was considered one of the most successful black farmers in the area. He rented land from neighboring landowners, both white and black. Today he owns 150 acres, officially operated by his brother. Dodson is convinced, and has convinced more than one judge, that most of his farming problems derive from racial discrimination at the hands of local U.S. Department of Agriculture (USDA) employees. It is a serious charge that deserves attention.

Dodson grew up on a New Deal land-reform experiment. These tracts of land were collectively called "Resettlement Communities." In the 1930s, there were about 100 such federal projects across the country, including 13 all-black settlements in the rural South. Dodson has farmed row crops—cotton, corn, and soybeans—all his life. He has also experienced racial discrimination throughout his life, especially, he claims, from the local office of the USDA's Farm Service Agency (FSA). According to Dodson, the discriminatory practices of the county office have repeatedly prevented him from acquiring more land and made farming difficult.

It wasn't always so. In 1987, the local USDA office loaned him the funds to purchase and operate 50 acres. Dodson farmed successfully and managed to repay the loans. But a few years later, a new loan officer stopped giving him loans in a timely fashion. This resulted in Dodson's inability to produce a successful crop. For three years prior to 1987, he was also turned down for land purchase loans; the USDA officer actually told him not even to bother applying because he was certain not to receive a loan. Dodson attributes these failures to obtain federal loans to racial discrimination.

Dodson says he currently is unable to obtain loans to farm—not only from the local USDA office but also from local banks. He believes that this has happened because he was a young, successful black farmer with high aspirations who presented a viable model. He is also a regional leader of a national black farmer organization, which has publicized the ongoing plight of minority farmers. He feels that this discrimination has not only hurt his business dealings, but that the persistent trials and tribulations they have caused have also taken a large toll on his family and health.

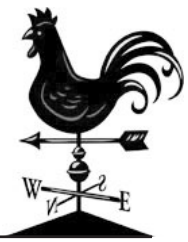
Challenges

Social and political contexts are important in land tenure. The vast majority of black farmers claim to have suffered racist treatment by government agencies. One prominent black-farm advocate reports that he's never met a black farmer who didn't reinforce this claim, and he has worked in this field for over 35 years. In 1998, the USDA settled the *Pigford v. Glickman* case, which alleged a long history of racial discrimination against black farmers. It has now become the largest civil rights settlement in American history—over $1 billion dollars and counting. The USDA's own publications admit to its racially discriminatory history. It is against this historical backdrop that Dodson's story must be understood.

Dodson would like to start growing and selling vegetables for local markets but feels he has been "blacklisted" from receiving USDA production loans. The main challenge is the lack of enforcement of non-discrimination laws by the federal agency. Yet this seemingly simple demand has not been met in hundreds of counties across the country, according to black farm advocates.

Recommendations

Dodson believes that beginning black farmers have been "scared off" by the racially discriminatory behavior of



county USDA offices. He cannot in good conscience urge young black people to try to obtain farm loans from the federal government, given its ongoing actions against him and others. Rather, he advises that potential applicants be aware of the personal as well as economic costs they may face. Among most black farmers, the USDA does not have a good reputation.

Lessons Learned

- Racial discrimination can and does impact the ability of black farmers to obtain land.
- Federal government programs can hurt as well as help farmers, depending on local practices
- Even successful lawsuits may not be enough to change attitudes and practices.

NOTE: Mr. Dodson was interviewed, and the case study written, before the Obama administration reached an agreement to settle the lawsuit in February 2010.

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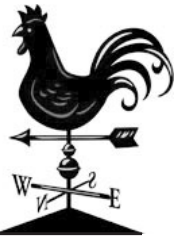

CASE STUDY: KRUSENBAUM

A Midwestern Sharemilk Incubator Arrangement on Leased Land

Highlights

- Long-term lease on land trust/organization land
- Sharemilking mentor/incubation arrangement

This case study demonstrates how farmers who do not own their farmland can still mentor beginning farmers and make a sharemilk arrangement work. Altfrid Krusenbaum and his wife operate a 340-acre dairy farm in Wisconsin. He grows pasture and annual/perennial forage crops such as grass, clover, and alfalfa. He currently maintains 130 dairy cows as well as 130 young stock and 60 head of steers.

Krusenbaum, who is 52 years old, has been farming for 25 years. He has been on his current farm and self-employed for the past 18 years. He originally obtained access to the land he leases from owners who desired to see land used for organic farming. The owners later transferred the farmland to the Yggdrasil Land Foundation whose purpose is to hold the land in perpetuity and make certain that it is always farmed. The Krusenbaums currently rent 240 of their 340 acres from Yggdrasil. Their current 15-year lease agreement is about to expire and they are negotiating a renewal.

Krusenbaum is not engaging in a sharemilking arrangement with the intent to transfer his farm operation to someone else. Rather, it is a way for him to help young people get started in a dairy farming career. He conceptualizes it as an incubator model of sharemilking. He sought out young people with previous experience on farms who *know* they want to get into dairy farming but lack a way to enter. His sharemilking contract sets up the young entrant(s) in charge of most of the chores and some of the management of Krusenbaum's livestock, as well as a share of the expenses. In turn, the entrant receives a share of the milk check and a share of the heifer calves. They are allowed to raise those calves on the farm. After 3 years, they take the calves they have earned and move them off onto their own operation, which they have hopefully been able to acquire with the funds they have received from the milk checks and perhaps USDA loans, etc. The Krusenbaums then take on the next entrant farm family, repeating the process.

Challenges

Despite the investment in a sharemilking scheme, there are no guarantees. The Krusenbaums completed a sharemilking contract with a couple who started out as farming interns with them. However, the beginning farmers decided not to continue in agriculture after all. They did not start their own farm and sold their earned heifers back to the Krusenbaums.

Krusenbaum notes that despite earning skills, milk check money, and a small herd, beginning farmers they work with will face difficulty finding access to farmland, "especially in light of the high land prices."

Despite a long, solid relationship between the Krusenbaums and the land trust, the Krusenbaums' own access to land is not secure right now. Part of the land they rent from a private owner is being sold for development. The acres they lease from the land foundation are not enough to maintain their farm operation and run a sharemilking arrangement. They are therefore in an uncertain position as they begin lease negotiations.

Recommendations

Krusenbaum suggests retiring farmers consider a sharemilking transfer/purchase model: "Maybe with a slow transition more in line with [the New Zealand sharemilking transfer/purchase model] that after a while…they would hand over more and more equity and work maybe in a partnership with the new person on the land.

Lessons Learned

- Sharemilking can work as an effective strategy to prepare a young family for farm entry.
- A sharemilking experience may lead to a decision not to continue farming.

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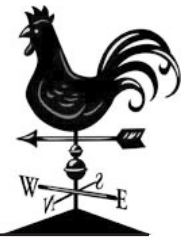


Farmland Succession via Land Contract to Young Beginning Farmers
(Two Contrasting Cases)

Highlights

- Beginning farmers
- Succession
- Land Contract

Kristie and Theo Smith-Bennett

Kristie and Theo are a married couple, both in their late 20s with an infant son. They jointly operate a new mixed-vegetable market garden farm in the Midwest. According to Kristie, they grow five acres of "basically every vegetable that will grow in this climate," such as asparagus, cabbage, broccoli, garlic, spinach, onions, and potatoes. as well as "raspberries, some apples, a few blueberries, and strawberries." The Smith-Bennetts supply a rapidly expanding Community Supported Agriculture operation from this market garden, with more local demand than they can meet. This demand is allowing brisk expansion of their farm business.

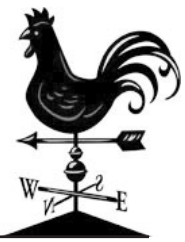
The Smith-Bennetts also have two herds of beef cattle on the farm, one of which is their own small herd of 17 cows plus calves. The other herd belongs to another farmer with whom they have a lease agreement. In exchange for taking care of his 35 cows and their calves, the Smith-Bennetts receive their choice of three-quarters of the young.

Theo and Kristie are purchasing the land they farm from Theo's parents. They are buying 80 acres, plus buildings that include a house, a large dairy barn, an unused "old barn" with granary, 3 silos, and a garage. They are leasing another 40 acres, currently in pasture for rotational grazing and haying, from his parents. This land is surrounded by land that his parents still farm. They have first right of refusal on the land, should his parents wish to sell it. Actually, Theo and Kristie could have purchased that acreage as well, but didn't want their monthly payments to be so steep without knowing whether their farming business would be successful.

The farm transfer is arranged via "land contract," which Kristie says is pretty standard in their area for one generation passing a farm on to the next. According to her, a land contract is akin to arranging a mortgage with your family rather than a bank. "Land contract is like paying really expensive rent. If the business doesn't work out, all the money goes to Theo's parents. If the business does work out, it's like having a mortgage." Per Kristie, in a land contract, all of the risk is borne by the landowners (sellers) but there are stipulations for minimum liability insurance for the buyers. She says it feels like "a *kind* of ownership," because they pay property taxes even though they do not yet own the title to the farm. They have a minimum payment of $900 per month and every month they pay in excess of that to get ahead. After a certain percentage of the purchase is fulfilled, the title will be transferred. Their case clearly illustrates that beginning farmers who receive assistance from farming family members can be well positioned to enter agriculture.

Kaleb and Bailey Rose

The Roses are a young married couple who want a dairy farm. Kaleb grew up on his family's farm but is currently working at a lumber factory, earning approximately $7–8 an hour. Bailey was injured and is currently unable to work. Although Kaleb's father has a farm and is nearing retirement, he didn't believe that Kaleb really wanted to farm or had the necessary knowledge and skills to succeed (he had co-signed for Kaleb's brother who "bailed," leaving him with two mortgages). Therefore, a land contract for the Roses was out of the question. Kaleb's father indicated that he would sell the land outside the family if Kaleb were unable to buy it. Kaleb has a spotty credit record and so doubts he would have any luck getting favorable bank financing. With the price of milk also being "incredibly volatile," Kaleb faced "lots of issues" when trying to enter agriculture. Although he was frustrated, Kaleb noted that "dirt runs in my veins" and he intended to keep trying.



Very recently, Kaleb's father decided to let him try to demonstrate his sincerity

and ability. He allowed Kaleb to rent 15 acres from him in 2008, and will lease him a total of 73 acres in 2009. The entire farm is 160 acres, with 113 tillable acres and the remainder in woods, pasture, and buildings. The other 40 tillable acres will still be rented out to another farmer, so that Kaleb's father will have some income coming to him from the land if Kaleb is not able to make a successful go of it. Kaleb is trying to get a larger dairy herd together to earn enough money for a down payment for the farm. According to him, buying the farm outright would cost in $320,000. In the meantime, he is trying to convince his father to let him turn over a portion of his milk check for income to his parents so that they "can *comfortably* retire" and that Kaleb would inherit the farm when they pass away.

Challenges:

For would-be beginning farmers who have no family assistance, especially those who do not have enough income or wealth to secure bank financing, access to farm land is the most difficult part of getting into farming. This may be particularly true when current owners need assurance of a degree of security.

Advice to Others

Young beginning farmers who have family members willing and able to pass on farm land to them are in a very different (and highly advantageous) position relative to many farm entrants. Land contracts, in particular, give beginning farmers access to land without overextending their resources.

Lessons Learned

- Strategic leases to maximize land use while growing the herd can be a sound practice for beginning farmers.
- Favorable family financing can help next generation farmers get established.

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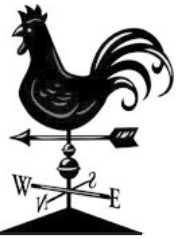

CASE STUDY: PHANG

Rental from a Land Trust Farm Incubator Program

Highlights

- Beginning farmer
- Immigrant farmer
- Land trust-owned farmland
- Farm incubator programs

Houa Phang is a 58-year old Hmong farmer in the eastern United States. Her mixed vegetable farm occupies three acres of land rented from the Southside Community Land Trust on an annual basis. She and 210 other limited resource farmers, most of whom are Hmong, are using Southside Land Trust land. Some of these people work Southside's urban plots only to help feed their families, but Phang and four others work on a 50-acre section of land just outside of the city to grow for market. Twenty acres of that land are currently arable, but these farmers are working cooperatively to bring all of it into production.

Phang first heard about the opportunity to lease land from the land trust when a friend told her, "there was a posting at the Hmong Association about a farming program. [She] went there to read the poster and then contacted the Southside Land Trust." According to Phang, just under a dozen people originally signed up. Southside then interviewed the applicants and chose those who would qualify for the farm incubator program. The land trust offered the land to the selected applicants. If applicants could not afford the $300 per month rent, they could receive a loan from the land trust at 3% interest.

Phang has been with Southside the longest of all the farmers. She didn't know how to farm when she arrived in the United States and learned from the land trust. She had operated a grocery store in Laos. In fact, the first year she was farming, she scatter-sowed her tomato seeds. Now, Phang's business is very profitable, and she sells at several farmers' markets in the area.

The farm incubator program has had some difficulties. The program participants were respon sible for clearing and tilling the land. There was little irrigation available in the beginning. A number of participants did not stay with the program because they worried about putting in a good deal of labor to make the land profitable without having the security of a long-term lease. When all of the original participants except Phang had left the program, the land trust amended its strict five-year lease policy, which had been intended to allow greater numbers to become involved as others "graduated" out, to allow farmers to stay on the land longer. Phang now has a year-to-year renewable lease with Southside.

Challenges

Beginning farmer programs that offer land may require a lot of upfront work from entrants if they are operating on land that has not previously been used for farming. Farm entrants and land trusts offering land need to make certain that their expectations are aligned.

Short-term leases from land trusts may not provide farmers with adequate land security. This is especially true in "graduating" incubator programs that are designed to provide only short-term access to land before the next crop of farmers is brought in.

Advice to Others

Phang would definitely recommend working with a land trust such as Southside, opining that "this is a good program and is very helpful for people who need to get started." Working with a land trust can offer entrants both farm training *and* access to land. Moreover, as Phang found, a land trust might also be able to inject more flexibility into their leasing options. Thus, they may be able to meet the needs of the local pool of beginning farmers.

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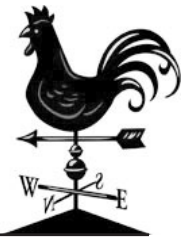

Lessons Learned

- Beginning farmers can come from populations that are neither rural nor from farming backgrounds.
- Incubator programs can teach beginning farmers the skills they need to succeed in agriculture.
- Incubator programs that are designed to “graduate” participants do not provide farmers with long-term land security.
- Land trusts can increase access to land for growing food.

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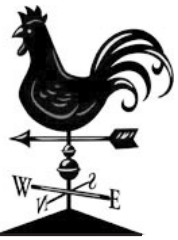


Countryside Initiative in Cuyahoga Valley National Park, Ohio

Highlights

- Rehabilitating and revitalizing older farms into working farms on public land through partnership with non-profit organization
- Use of long-term agricultural leases with conservation stipulations on public land

This unique case study is a story of how public landowners linked arms with a non-profit to return farming to their historical land. One aspect of the original mission of a national park was unburied and made into reality with the help of a non-profit organization, state employees, and farmers looking for agricultural land. Through the use of long-term leases, this national park has fulfilled its mission of returning to its historical roots of a working agricultural landscape, while maintaining environmental stewardship through lease stipulations that outline the conservation-related expectations for land care.

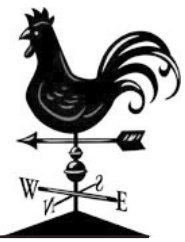
Located between Akron and Cleveland, Ohio, the 22-mile long, 19,000-acre Cuyahoga Valley National Park was created through the Parks to the People program in 1974. The founders had hoped to prevent the rural landscape from disappearing and to preserve the rural character of the valley. Although rehabilitating the remnants of the old farms had been a central goal for the park's founders, over two decades of park management passed before the park began to take major steps to focus on the agricultural value, versus the wilderness value, of the land. The park had previously set up short-term leases with local farmers for raising hay and corn on parkland, but more major attempts to bring agriculture into focus were hampered by the lack of models available on which to draw. This changed in 1997, when the park superintendent took a sabbatical to England to the British National Park Service, where he observed public lands being used by private citizens to farm.

With the help of Darwin Kelsey, the Countryside Initiative program was created to transform the old farms into working sustainably oriented farms. The non-profit Cuyahoga Valley Countryside Conservancy, with Kelsey as director, was created as a partner organization to the Cuyahoga Valley National Park to co-manage the Countryside Initiative program. Cuyahoga Countryside Conservancy obtains a quarter of its funding through a contract with the Cuyahoga National Park, but it also receives funding through foundations, fees collected from vendors at the farmer's markets it supports, and tuition fees from educational workshops.

One of the first issues Kelsey tackled was the term of the agricultural leases the park had been accustomed to using. The park had been issuing special use permits to farmers on a very short-term basis, mostly year-to-year arrangements, to grow hay and corn on the park's land. But Kelsey emphasized the importance of long-term lease arrangements to encouraging farmers' long-term interest in the land. The park currently leases land to farmers for up to 60 years.

"Now the assumption was that things were on a short-term lease and it would be harder for those farmers to do a lot of damage in a short time. But of course, that's counter-productive. I mean if you're going to set people up to have short-term access, they have a built-in incentive to make the most of the opportunity, to neglect all kinds of stewardship issues, and maximize their income. And they have no incentive to make long-term investments that they may not get their money back on or undertake long-term conservation stewardship practices," said Kelsey.

For the farmer, the long-term lease means that he or she can make a sizable capital investment in the operation and be able to see the returns of that investment. The long-term lease also presents the opportunity for the farmer to build equity. Kelsey explains that there are built in protections for the farmer's investment. For example, the farmer can never sell the land, but with the park's approval, he or she can sell the remaining years of the lease to an incoming farmer if he or she wants to leave the program.



The Cuyahoga Valley Countryside Conservancy uses a request for proposal (RFP), which is a legal

document, to identify interested parties to farm on the park's land. The Conservancy recruits potential farmers, evaluates RFPs, interviews promising candidates, and makes recommendations to the superintendent of the park. Part of their evaluation process involves assessing the strength and quality of the candidate's *farming concept*. The program has a rigorous set of expectations and standards with regard to environmental stewardship, and candidates must convince evaluators that their attitudes toward conservation and land care fit with those of the park's. The RFP has a section that discusses sustainable practices, laying out various levels of sustainability on a chart. The candidate places him or herself somewhere on this chart (see Figure 1), and though the candidate is not expected to be certified organic, he or she should be on that general end of the spectrum to receive consideration.

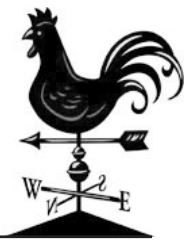
Production Practices for Sustainable Vegetable/Crop Enterprises*

Less Sustainable Practices			More Sustainable Practices
Crop Rotation			
Monoculture (same crop in same field each year)	Two years between the same crop planted in the same field	Three years between the same crop planted in the same field	Four years between the same crop planted in the same field
Organic Matter Maintenance			
Add crop residues only	Add animal manures + crop residues	Add cover crops, animal manures, + crop residues	Add compost, cover crops, + crop residues to soil
Nitrogen Fertilization			
Broadcast bagged fertilizer in fall	Broadcast bagged fertilizer in spring	Band and sidedress fertilizer to match timing of crop uptake	Rely on N from organic residues, in addition to timely fertilization
Insect Management			
Calendar spray insecticides (on predetermined schedule)	Scout for insect pests, then spray non-selective insecticide	Scout for insect pests, then spray selective, least-toxic pesticide	Use cultural practices and beneficial insects to control pests
Weed Management			
Apply herbicides as primary weed control tool	Apply reduced rates of herbicide and cultivate	Cultivate to remove weeds	Use allelopathy, smother crops, and mulches to suppress weeds
Disease Management			
Apply fungicide on a predetermined schedule (e.g., weekly)	Use disease modeling to time fungicide applications as needed	Use disease modeling to time fungicide applications as needed	Use disease modeling to time fungicide applications as needed

* Adapted with permission from *Sustainable Vegetable Production from Start-Up to Market* (NRAES-104). Natural Resource, Agriculture, and Engineering Service, (NRAES), PO Box 4557, Ithaca, NY 14852-4557, www.nraes.org.

Figure 1. The scale used by the Countryside Initiative program to assess farming approach.

Once the superintendent accepts the recommendation of the Conservancy, the park and the farmer begin negotiating the lease, which is a 40-page document detailing the relationship between the lessee and the park that outlines the responsibilities of both parties, including required conservation practices and building repair and maintenance. Regarding conservation practices, the lessee is prohibited from using herbicides and pesticides without pre-approval, and each year must submit an annual operating



proposal. This proposal must be approved before any changes to the land can be made.

The park determines the amount of rent the farmer pays. This figure is based on two components: the residence and the farm enterprise. A certified appraiser assesses the value of the buildings on the property and compares the cost of living in this house to other houses in the surrounding community. The figure the appraiser calculates is then discounted by at least 50% through the Countryside Initiative program due to the many regulations with which the farmer must comply in order to live and farm on the property. The second component of the rent is based on the productive value of the farm and represents a percentage of gross sales. Where many landlords might require renters to pay 20 to 40% of gross sales, Cuyahoga National Park requires renters to pay 5% during the first year, increasing half a percent each year until, 10 years later, the maximum is reached at 10%. The concept behind this incremental rent increase is the understanding that starting a new business can be difficult, and it can take 5 to 10 years to reach a productive level. The rent paid by the farmer stays in the Cuyahoga National Park.

The Conservancy has estimated that 20 old farms in the park have the infrastructure to be rehabilitated through the Countryside Initiative program. By the end of this year, there will be 11 farms created through the program, including a community supported agriculture (CSA) vegetable farm, a meat goat farm, a "you-pick" berry farm, a culinary and medicinal herb farm, and a lamb and agritourism farm.

According to Kelsey, "These little farms…their greatest value is to help people get a glimpse of where the future is. It's a little bit about the past, but mostly about the future. We're not going to continue to farm the way we're farming now. Ninety-eight percent of all the food consumed in America is produced by long distance, industrial food systems. …These little farms in the park here are part of that emerging alternative to get into the public's mind to help change our perception of where we are and how we ought to change."

As far as taking the model of the Countryside Initiative and adapting it to fit other systems and contexts, Kelsey says, "You don't have to be in the park to do this. It's adaptable. We also know that there are other state parks and local park systems that are out looking at this because many of them in fact have 'x' number of acres of farmland including sometimes land with houses and barns and so on, that were originally associated with it, so there are a number of public settings in which what we've done here is applicable. So I think that's significant and important. In fact, a private individual could [do this]. If they've got a farm close by or somebody inherits a farm but they don't necessarily want to just sell it, they could manage it according to the same kinds of system or ways that we do. So what we're doing is applicable in other situations, and that becomes a model that deals with the whole issue of access and succession."

Key Resources

- Securing a contract with the national park service, and raising money through foundations seemed to be integral to establishing the non-profit Cuyahoga Countryside Conservancy.

Lessons Learned

- Partnerships between public landowners, non-profit organizations, and farmers can lead to innovative models that bring farmers onto farmland, increase the public awareness of sustainable farming, enhance the agricultural productivity of public lands, and ensure that the quality of farmland and the integrity of the environment is being maintained through conservation practices.

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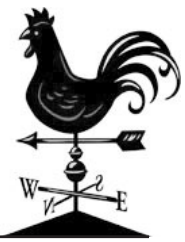


Guralski-Martin Incubator Farm

Highlights

- Successfully transitioned incubator dairy farm to non-relative employee
- Renter took good care of the land due to lease-to-own arrangement

Enos Martin had worked for the Guralskis for several years on their farm in Marathon County, Wisconsin, as an employee milking cows. When he told Lyle Guralski that he would be moving on soon to find a dairy farm of his own, Lyle and his wife wanted to help the Martins get started. The Guralskis looked for a farm to rescue, that is, a farm that had been a dairy farm historically, and wanted it to be within 4 miles of their home farm to keep fuel costs to a minimum. The farm they zeroed in on fit this description and had been used to raise beef cows most recently. In 1999, the Guralskis expanded their operation and bought this 80 acre second farm. Lyle invested in the second farm, making improvements so that it could fully function as a rotational grazing operation. Within a few years time, in 2005, Enos bought half of Lyle's herd and leased the land on the second farm. After two years of successful management, Lyle offered Enos the option to buy. Today, the "second farm" is now the Enos and Phoebe Martin dairy farm in Edgar, Wisconsin.

From Leasing to Owning

This successful farm transfer story sounds so simple, and in fact, "simple" is just how both Lyle and Enos described the arrangement. But there was plenty of planning and communication between the two parties before Enos and Phoebe actually bought Lyle's second farm.

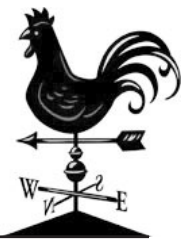
"We used to work together and then we'd stop and talk for 10, 15, 20 minutes, a half an hour, maybe even an hour sometimes, and just…well, how would we do this, how would we split the cows up and, how many do you think I could run and, how much could I borrow if I had this many and we'd just talk about these things. We talked about it for probably a year or two years before we even did anything."

The goal was to duplicate the grazing system at Lyle's home farm, and to run the two farms as Lyle's operation, with the idea that the second farm would eventually be transferred to Enos. The second farm had thin infrastructure and Lyle invested in a milking parlor similar to the one he had on his home farm. He also invested in bedded winter housing, fencing for a rotational grazing system fit for 100 cows, and a filtration system that allowed water to be silted through a grass strip before going into the stream. Apart from infrastructure, the quality of land on the newly purchased farm needed improvement. The soil in the farm's valley was heavily silted and too wet, making it impossible to graze cattle in this area. But after engaging in managed grazing over several years, Lyle and Enos saw the quality of sod drastically improve. During this time, Enos and Lyle worked to build up Lyle's herd, and they ran the farms as efficiently as possible. Not only was the two-farm set-up environmentally responsible, it was profitable.

Informal Verbal Agreement

Throughout the transition period, the Guralskis and the Martins received guidance from Extension Agent, Tom Cadwallader, in developing a successful lease agreement. Because Enos had been a good employee for several years, Lyle was confident that he had the talent and the ability to take over his second farm.

"We basically said that if he stuck with us, we would make that farm his, if he was interested," said Lyle. "Our goal was that we would lease for three years, but in two years, Lyle, the landowner, gave me the option to purchase and that's what we did. So we purchased two years after the lease and that was just a mutual agreement. It wasn't necessarily written down," Enos said.



For Enos, the farm transfer was especially advantageous because the farm was set up for rotational grazing, and most importantly, the cows were already accustomed to the set up. Buying new cows and bringing them into an operation often means a higher than average cull rate. When Lyle sold half of his herd (90 cows) to Enos in 2005, those cows were transferred to the second farm where Enos managed them and rented the farm for two years. In terms of how Enos treated the land as a renter, he said, "I treated it like I was going to own it. Lyle stuck a lot of money into this farm. I tried taking care of it as if I'd be the owner of it someday, and yet, he had it fixed up to where it would work."

Key Ingredients

For Lyle, what made the arrangement so successful was the mutual respect he and Enos had for one another, and the opportunity to transfer his farm to a competent new young farmer.

"It isn't about the money. It's actually the joy of just seeing him and his wife and his family do well. You know, when I'm on my deathbed, I think those are things that I'll think of."

Enos agreed that mutual respect was the foundation for the successful partnership that led to the smooth farm transfer. "You have to listen and work for someone else and that's hard. Today there are not too many people that want to do that. I mean that's the way I see it. I had a lot to learn. Lyle taught me a lot of things and you have to work hard," he said.

"It's kind of like being married. It's the partnership. I never really had a cross word and neither did he. We always talked about things before it got to the point where it got, to where somebody had to get nasty about it. That's what makes it easy I guess. I tell people and everybody says well you know they can take you through the weeds and I say, 'yeah, they can'… The person coming in has everything to gain, to a degree, and the person with the assets has everything to lose. You could probably get beat up pretty good, but you just got to have faith in the person that you're dealing with that he's going to do what he says he's going to do," said Lyle.

Key Resources

- Marathon and Lincoln County Agribusiness Incubator Project, University of Wisconsin-Extension, Agriculture Agent Tom Cadwallader

Lessons Learned

- Mutual respect between landowner and renter.
- Lease-to-own arrangement advantageous for renter and for environmental stewardship.

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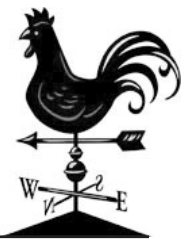

CASE STUDY: JACOBS

Swallow's Nest CSA and Land Access Struggles

Highlights

- Troubles obtaining land with high quality soil
- Insecure relationship to the land deters investing in conservation practices
- Success in building partnership with landowning CSA member

How does insecure and unstable land tenure affect farmers' actions with regard to conservation behavior? The following case study describes how one farm couple has struggled for 14 years to obtain and secure quality farmland for their vegetable operation. Having recently discovered an interesting and unanticipated solution to their longtime struggles through drawing on the social ties made possible through their Community Supported Agriculture (CSA) farm, these farmers explain the successes and failures they've encountered in trying to implement conservation strategies on rented land.

Nora and Pete Jacobs have been running Swallow's Nest, a CSA farm in Southern Wisconsin, for 14 years. They are in the middle of transitioning the land they operate to organic practices, through the Natural Resource Conservation Service (NRCS) Environmental Quality Incentives Program (EQIP). This year, their CSA feeds over 200 families, their largest membership yet. They grow vegetables, alfalfa, and oats on 30 acres of rented land, and they keep a variety of small livestock, including goats, chickens, and sheep.

Since they started farming, the Jacobs have struggled with acquiring and keeping quality farmland. Due to the high cost of buying land in their region, the couple has been forced to rent land from year to year from the surrounding farmers in their area who farm conventionally. The Jacobs use organic farming techniques, and obtaining high quality crops from depleted soils on rented land has been a continuous struggle for them.

"The first one that I remember that we rented was next door to a friend. He didn't have a lot of land but he had leased his little corner to a big guy and that soil had no worms, no life at all. It was just awful, and everything that season that came out of there was mini. Then we had another place similar to that where the family wanted to transition it to organic but it had been continuous corn for years and it was a mess, and that also had really small vegetables. You just can't make the soil well very fast," said Nora.

Discussing the length of their leases on rented land, Nora said, "Oh no, it [the lease] was never more than a year-to-year kind of deal. It is totally not worth investing what it takes to bring something back around if they're going to snatch it out from under you." In addition to the problem of poor soil quality, Nora and Pete have had considerable trouble holding onto the small parcels of land they have rented. "I'd say we've probably had a half a dozen locations in the neighborhood, little corners of land that we've used, a year or two, maybe three. And either someone else rented it out from under us, it got sold, or it was just so grossly inconvenient for us to move machinery."

For the Jacobs, the cost of farmland has been prohibitively expensive. When they bought their farm in 1992, the seller was asking $900 per acre. Today, farmland sells for $5,000 per acre in the Jacobs' neighborhood. At the time they purchased, they proposed to buy a larger parcel of land from the seller, but she was unwilling to sell anything less than the 150 acres that made up the original farm. They bought five acres in buildings from this seller. Today, the Jacobs pay $100 per acre for the land they rent. From a financial perspective, renting is far more feasible.

Solutions

Recently, the Jacobs found a solution to their land access problem. Three years ago, a CSA member who had been a customer of theirs for several years was looking for farmland in their area. A 40-acre farm was up for sale a mile away from the Jacobs, and the CSA member bought it. For the past few years, the Jacobs

have been renting 27 acres of this land, and they are in the process of transitioning this land to organic for the owners. The Jacobs pay $100 per acre in rent through a 5-year lease, and they receive $50 per acre in cost-share through EQIP to offset the cost of organic hay. The land will be certified organic in the next year, and Nora is confident that the owners will renew their 5-year lease.

Nora explained that planting alfalfa and oats has rejuvenated the soil on this rented land: "What we have seen over there as we're transitioning that land is birds are coming back. It's been really neat, especially this year going through the fields and seeing how much more life and activity, not just in the soil but above the soil, as nature kind of comes back around and the birds are finding a nice place to live."

Key Actions

Nora insists that they would not have found the land they currently farm had they not widely communicated their need for quality land to farm.

"If [you're] looking for land, just talk about it and ask about it in your neighborhood as people get to know you and respect what you do .A lot of land sells, but a sign never goes up. So talk and talk and talk, because it was certainly through our relationship with [our customer] that we were able to have that land."

She concludes by saying, "I'm not sure we could have kept going if we had not had that arrangement because it's just so hard to get these, you know. We don't want to lease hundreds of acres; we just need a small amount for the vegetable production. Although it has helped immensely to have our own hay and to grow a little bit of our grain for the animals because feed is getting just astronomically expensive. So that's helped us a bunch. It's been well worth it just to do that."

Key Resources

- Talking to CSA members and people in the community
- Natural Resource Conservation Service (NRCS) Environmental Quality Incentives Program (EQIP)

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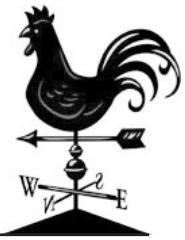


CASE STUDY: KUPERS

Tenant initiates conservation practices on rented wheat farm

Highlights

- Tenant educated landowners on conservation practices
- Reconnecting the farmer to the consumer
- Regional loss of farmland related to Conservation Reserve Program

This case study shows how a farm renter was able to introduce innovative sustainable agriculture techniques on rented land and how he proceeded to launch a successful flour company based on cooperative relationships between dozens of wheat growers. Karl Kupers stresses that tenants educating their landlords about the advantages of conservation methods is a key to improving land stewardship on rented land.

In 1987, Karl Kupers, a wheat grower leasing 5,600 acres in Washington state, tried something different. After a tillage operation on a parcel of his land resulted in soil erosion so deep that his typical winter wheat crop couldn't be seeded, he listened to the advice of a friend who was a native grassfeed dealer. Karl seeded perennial grass and watched over a period of years as the basically no-till system he had set up led to improvement in the land and in the soil. Shortly thereafter, Karl was given the opportunity by Monsanto to go to Pierre, South Dakota, with eleven other growers to observe the no-till farming system at the Dakota Lakes Research Farm.

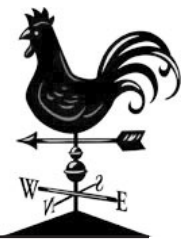
The Dakota Lakes Research Farm was established in the late 1980s as a collaborative project between South Dakota State University and the non-profit Dakota Lakes Research Farm Corporation for the purpose of conducting research on no-till farm techniques. Using a direct seed drill instead of a plow results in soil that retains more water, undergoes less erosion, and has fewer germinating weeds.

"I was in a perfect mental frame of mind, and I soaked it up in spades. I came back and personally just decided that that's exactly what I wanted to do at this farm. Of course this farm was all leased; I owned none. So, I put together a two-hour presentation and went to my landowners and basically in two hours, I said, 'Forget about everything you've known about farming, and let's give this a try,'" Karl said.

Since 1973, when he took over his father's wheat farm, Karl had leased 5,600 acres from landowners through written agreements. Prior to his trip to South Dakota, Karl had already successfully diversified his farm with non-wheat crops such as canola, and had, since 1985, been working toward the goal of operating his farm without subsidies. He proposed the following plan to his landowners: "I said, 'Look, let's try a no-till, diversified rotation project. Give me seven years and if we're not matching up equal to or better than what we've been doing, then we're going to abandon it.' They said yes, and the rest is history."

"I touched over 16 crops, put them in the ground, and I realized that the rotation was the key to my success from an agronomic and environmental standpoint. I lived in a monoculture region, so I found it very difficult to market these diversified products. I looked around and decided there was nobody else out there willing to do this, so I jumped in."

Today, Karl is the primary marketer of Shepherd's Grain, a flour company that he co-founded in 2001 with Fred Fleming, another Washington wheat grower. Karl has since stepped away from farming in order to devote himself entirely to marketing for the company. Shepherd's Grain obtains its wheat from 34 growers from all over the Northwest. All growers farm using sustainable practices and are certified through the Food Alliance, which is based in Portland, Oregon. In addition to their main crop of wheat, the growers also produce minor crops such as lentils and garbanzo beans that are marketed by the company. Shepherd's Grain flour is identity-preserved, which means that the origin of a bag of flour can be traced back to the field where it was grown. Karl explains that this is important from a food safety standpoint, as well as from a marketing standpoint. The feature of product traceability may be increasing in demand, which makes it more important for consumers to connect with farmers.



Resources Used

Incredibly, Karl was able to start a successful business marketing locally grown products from wheat produced sustainably on leased land. "Most people literally would almost call me a liar when I tell them I leased my land because, no way, because the way you treat it and what you're doing with it, and all this stuff, they couldn't believe it. And I go, 'Well it's true!'"

In addition to the opportunity to visit the Dakota Lakes Research Farm in South Dakota to learn no-till techniques, Karl's efforts were supported through a research grant from USDA Sustainable Agriculture Research and Education (SARE). Additionally, forming the alliance with Fred Fleming in 1999 was a key ingredient in launching Shepherd's Grain.

Suggestions to New Farmers and Landowners

Karl stressed the importance of tenants educating their landlords about the benefits of sustainable agriculture. He presented his landowners with the necessary information, then came up with a proposal. As far as landowners, Karl has heard of some individuals in his region specifying "no-till" in lease agreements, but such stipulations are rare.

In his specific region, Karl explained that it is not development pressures that are responsible for the loss of agricultural land, but the vast amount of highly productive land enrolled in the Conservation Reserve Program (CRP). Karl is in support of CRP when it protects highly erodible land, but feels the program is not helping new farmers to get established in his region.

"We see farmers retiring their whole farm under that program (CRP). It was never supposed to happen that way and what happens is that it kills small communities because their livelihood is based upon agriculture and when you take it out of production, you kill so many components within your community and it's just a shame. But the most critical part is that new young farmer who would like to expand."

Karl sees the Conservation Security Program (CSP) as a suitable program to keep agricultural lands as working lands while conserving their environmental qualities instead of one that pays people to retire their land. He feels that if CSP was improved with increased funding and increased operator eligibility, the program could really benefit the environment and society:

"One of the things that we continue to look at, work on, and hope for in the future is the environmental service that a no-till program provides for society. There are real opportunities for marketing that in a positive way. In a perfect scenario, the CSP program is the beginning of that, and the further development of watersheds involving no-till prove it. It has a nice outlook and could bring that new young farmer back to the land."

Key Resources

- USDA SARE Research Grant
- The Dakota Lakes Research Farm, Pierre, South Dakota

Lessons Learned

- Tenants need to educate their landlords to facilitate conservation practices on rented land.
- Compared to CRP, CSP has more potential to help beginning farmers in the Washington area.

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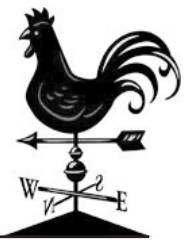


Conservation Buyers Lease to Sustainable Farmers

Highlights

- Innovative approach at securing land for organic farmers and keeping that land in organic production, made possible through green investors and a third party organization
- Long-term, renewable agricultural leases with option to buy, and with a required conservation plan stipulated in agreement

This case study describes an innovative approach to securing land for farmers interested in keeping land in organic and sustainable production. New Spirit Ventures, LLC, founded by Robert Karp, connects "green" investors with farmers looking for farmland. The investors purchase the needed farmland and then lease it to the farmer through a long-term (15-year), renewable lease. The goals of New Spirit Ventures are to: 1) strengthen the viability and growth of organic and sustainable farmers and ranchers; 2) preserve farmland and encourage the economic, social, and ecological health of rural communities; 3) aid ethical investors to meet their social, financial and environmental goals by facilitating their investment in organic and sustainable farmers; and 4) create a community between investors and farmers where environmental stewardship, healthy food, and farmland preservation are strongly valued.

Launched in 2008, New Spirit Ventures accepts applications from organic and sustainable farmers looking for additional land, or who need financial assistance to maintain their current land base. To be considered for the program, the farmer must meet the following criteria: commitment to sustainable agriculture practices; at least 5 years experience in the business of farming; consistent markets with stable relationships with buyers; 4) pay a rental rate of at least 4% of the cost of land to start. After due diligence by Karp and his colleagues, farmers are selected to participate in the program. Land purchases are negotiated and the initial leases are put into place. The long-term lease—which is actually a 5-year lease with the option to renew for an additional 10 years—includes: the option for the farmer to buy the land at fair market value, should the investor want to sell the land; an affordable rental rate for the first three years while the land is in transition to organic production system (if needed); and a conservation plan.

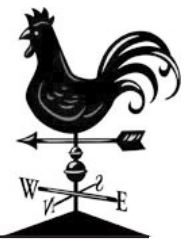
In 2008, New Spirit Ventures identified 8 promising farmers who fit their criteria. "Of the ones that looked more promising, one of the very gratifying things was that a number of them were young farmers, like late 20s and early 30s who have a farm background, and are farming now, but who need more land in order to be sustainable. That's been very gratifying because it's clear that the program can be of value to young farmers."

So far, New Spirit Ventures, LLC has facilitated the purchase of one property, a 160-acre farm in Southwestern Minnesota. The purchase is a success for the pilot program in at least two ways. The purchased land will be transitioned from conventional to organic. The farmer selected for the program is young and experienced. This means that New Spirit Ventures is achieving its goals of preserving farmland and helping the next generation of organic farmers to secure land.

In areas where farmland is under threat, Karp hopes that investors will place agricultural easements (in this case, that specifically limit land use to organic agricultural production systems) on the farms they purchase to legally protect the land from non-farm development over the long term.

Directions for the Future

New Spirit Ventures, LLC is currently considering a new design to achieve its farmland retention goals. Karp eventually would like to improve his pilot program to enable investors to pool their finances and purchase farms together as a third party financial entity. This social investment fund would require more organizational infrastructure and would involve compliance with various types of state laws. For example, if the social investment fund was to



be set up as a LLC, the fund could not legally own farmland in the state of Minnesota as state laws do not allow corporations to legally hold farmland. However, the fund could be set up as a non-profit, and this approach would make matching farmers to investors more simple and efficient, hopefully resulting in the purchase of more farms in a shorter amount of time.

Key Resources

- Legal experts to aid with navigating state laws regarding the creation of social investment organizations
- Social networks to facilitate the matching of potential investors and potential farmers

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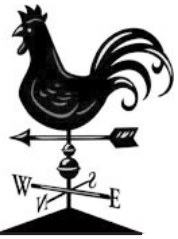


CASE STUDY: SMITH

Struggles for a Private Landowner's Environmental Wishes

Highlights

- Difficulty finding organic farmers to rent land
- Challenges between non-farming landowners and tenants regarding the enforcement of conservation stipulations
- Guaranteeing environmental wishes for the land through deed attachment

Some landowners face real difficulties when trying to enforce the conservation-related stipulations in their lease agreements. Additionally, landowners, particularly non-farming landowners, may experience challenges when looking for renters with attitudes toward the land that are similar to their own. Similar to the issues raised by the Monk Farm case study, this story covers issues related to ensuring that one's land stays in agricultural production and is farmed according to the environmental wishes of the landowner.

Mary Smith is 82 years old and was raised on a 166 acre mixed crop and livestock farm in Eastern Iowa. In 1955, Mary and her husband, Tom, bought the farm from her father, who moved to town after Mary's mother died. The land was in pasture rotation and the couple raised as many as 10,000 turkeys at one time, in addition to cattle, hogs, and other livestock. In 1968, the couple began renting some of their land in shares to a neighbor and after two years, began cash-renting this parcel of land. In 1971, Mary's husband had heart bypass surgery, and though he continued to farm, it became clear that he would not be able to keep farming for long. The couple sold 80 acres of their farm to the same neighbor who had been renting the land in the late 1970s. The couple cash-rented the remaining 86 acres of their land to this same family, who had four boys who all stayed in farming on the family's 6,000-acre corn and soybean operation. This rental arrangement continues today.

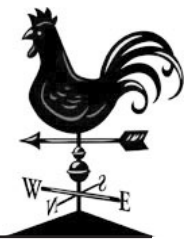
Challenges

Since the mid-1990s, the Smith's have been interested in organic agriculture. They began to become concerned about the amount of fertilizer and chemicals used in agriculture and the effects on humans and the environment. Although they were no longer farming at that time, the Smiths tried to find ways to encourage organic production methods on their land. They advertised for organic farmers to rent their 86 acres, but to no avail. The Smiths asked their neighbors who had been renting this parcel of land for their corn and soybean operation about organic farming, but the neighbors explained that it would be too labor-intensive to carry this out with their type of operation.

In 2005, Tom died. The following summer, Mary noticed that the renters had planted corn through the waterway, violating the lease agreement which stated that according to conservation recommendations, all waterways should be mowed and maintained at 30-feet wide. Initially, she thought that perhaps because she was a woman landowner, the renters thought they could take advantage of the situation. Mary called the renters on the phone to remind them about this stipulation. The renters agreed to mow the waterway, but because of some broken machinery, the waterway ended up not being mowed that year. Over the years, the Smiths had noticed that the renters had been leaving the waterways less and less wide, and Mary described that although the renters were always amenable to the rules in place for her land, they would slyly try to stretch these rules. "So we just bring this to their attention," Mary said, "and this year we are back to where we ought to be. They are 30 feet wide again."

Social ties play a strong role in Mary's story. These neighbors have been renting land from the Smiths for 40 years, and Mary's parents were close friends with the current farmer's grandparents. These strong ties seem to make it difficult for Mary to be more forthright with her renters. "It's sort of one of those things you deal with," she said.

Mary and her children are in agreement that they would like to keep the farm in the family and that it ought to remain in agricultural production, ideally farmed using organic principles. In this region



of the country, development pressures are strong and farmland is under threat. The Smiths have discussed retiring the land using the Conservation Reserve Program (CRP), or attaching a clause to their deed that would guarantee the land for agricultural use only. The family investigated the CRP option, but discovered their land is too productive and cannot be classified as highly erodible land. They are currently in the middle of discussing the deed attachment option with an environmental attorney, and this is the route they favor most.

Recommendations to Other Landowners

Mary recommended that other landowners should be aware of their renters' activities, and that they should try to find someone who wants to care for the land in the same way. In her experience, she has had some struggle with keeping the waterways mowed, but in general, her renters engage in conservation tillage and use low-grade cultivation techniques. It seems as though they are aware that they must conserve the soil and this is important to Mary as a landowner. She thinks that it is imperative that landowners have a written lease and that they review it with their renters each year. From about 1985 onward, the Smiths have had a written lease with their renters, which her husband wrote up with the help of a field specialist from Iowa State University Extension.

Key Resources

- Iowa State University Extension
- Environmental attorney

Lessons Learned

- Landowners should consult with as many experts as possible regarding the environmental wishes for their land.
- Written leases should always be used to ensure renters' compliance.
- Landowners should ideally rent to tenants who have the same land care goals in mind.

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Click here to return to Verbal leases on page 50

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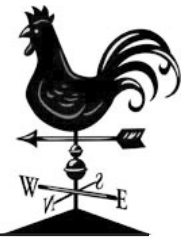


CASE STUDY: HAYNES

Passing on the Farm without an Identified Farming Successor

Highlights

- Successful incorporation of coaching and team methods
- Connecting family members with community service providers
- Use of leasing as a transition tool

Haven and Elaine Haynes operate a 5th generation diversified farm on 350 acres in northern New Hampshire. They raised six boys on this valuable but cash-strapped operation which over time has included dairy, beef, hay, poultry, mixed crops and lately an herb shop—all providing portions of farm income. The elder Haynes couple is developing a succession plan. While one or more sons may want to farm, they have no named successor. This case illustrates the advantages of a team approach that integrates coaching, succession, business and land use planning, leasing and conservation to enable gradual retirement as well as farming opportunity and land stewardship on leased land.

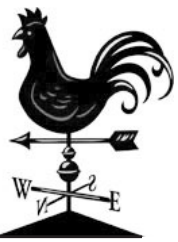
With their sons living off-farm and the senior Haynes couple approaching retirement age, the family was just barely maintaining through its diversified operation. To develop a new strategy, Elaine enrolled in the NH Agricultural Innovation Program for business planning assistance. She was referred to Land For Good (LFG), a regional nonprofit specializing in farm transfer assistance.

Elaine and Haven owned the land debt-free, along with modest improvements, but were poorly positioned for retirement. Their goal was to keep the land in farming and in the family. Labor had been a chronic problem, but a family friend with a handshake lease and a history of improving the land held promise for the future. They wanted the homestead and rentals units to go to one son, with additional housing options being provided for their remaining sons. The couple felt strongly about keeping the property in agriculture as much as possible and not subdividing unless absolutely necessary. They pointed on a local map to a farm "that was subdivided and got chopped up, some fields in still hay, some houses, some overgrown." They sought creative legal and land use options to meet their goal.

LFG conducted an assessment, outlined options, and drafted a land use plan reserving potential building lots for their sons. With the senior generation clear on its goals, LFG helped connect Elaine and Haven to other family members. Establishing good communications among family members was problematic from the start. The sheer number of individuals involved, geographic distance and changing schedules undermined progress. The sons (spread across 4 states) and parents decided to invite only each other—no spouses—on the first conference call, with LFG staff facilitating. The family dived right into the issues. "What do *you* want to happen, Ma?" one son asked.

Before the first family meeting, Elaine's son Robert read an article about a local land trust. The group asked LFG to help them locate an attorney and to provide them information about land trusts and conservation easements as potential strategies to preserve their working land for agriculture while establishing house lots for family members. This strategy is sometimes referred to as "limited development." LFG used the Farm Transfer Network of New England website to locate land trust resources and attorney referrals. The regional Ammonoosuc Conservation Trust expressed interest and conducted a site visit with the USDA Natural Resource Conservation Service. The Haynes had not dealt with either group before, and both had funding to provide assistance. The service team was shaping up for the Haynes family.

The Haynes family is considering creating a trust that allows long-term leaseholds that enable flexibility for the children as well as potential non-family farm tenants to live and farm there. It will enable family members or non-family farm operators in the future to use portions of the land in ways compatible with each other and the Haynes seniors' shifting time and energy.



Lessons learned

- Coaching is critical to get and keep the process going
- Leasing can be a creative strategy
- Business planning is an essential part of transfer planning
- Teamwork among professionals can make the difference

Key Resources

- New Hampshire Agricultural Innovation Program
- Ammonoosuc Conservation Trust information and referral
- Natural Resource Conservation Service
- Farm Transfer Network of New England
- Land For Good Farm Transfer Planning Program

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