

SMALL FARM *digest*

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FARMLAND PRESERVATION



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“The Farm and
Ranchland Protection
Program created a
win-win-win
situation for all
Partners”

Farmland Preservation

What are the best strategies landowners can use to preserve their land for farming and ranching? This question, of course, can only be answered on an individual basis, depending on goals, location, programs available, and other factors. But, there are a few general observations that can help farmers and ranchers identify the best approach.

There are several reasons for preserving land as farmland. One is to protect the rural amenities and other environmental non-market outputs from farmland. A related aspect is protecting the nation's ability to produce food and fiber. Another reason for protecting farmland is to safeguard a producer's ability to continue farming or ranching without being forced into an



uneconomical position or being legally required to cease their farming operation. Many farmers and ranchers are also interested in preserving their farmland because it is their estate and they want to pass the land and the ability to farm to the next generation.

Protecting Rural Amenities People who are interested in protecting rural amenities and other social goals attained by farmland preservation generally rely on governmental programs. The market is unable to provide farmland protection for many attributes without intervention. Because private land use and conversion decisions may not account for rural amenity and other non-market benefits provided by farmland, government agencies and other organizations adopt policies and programs to protect farmland. Land use management is a local prerogative by tradition and law, and every state has enacted measures that help protect farmland.

There are many different governmental programs in place to help preserve farmland. Most fall into two major categories: regulatory programs that restrict land use, or voluntary programs, such as purchase of conservation easements.

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Agriculture zoning is one regulatory approach to farmland protection. Zoning can take many different forms and for many reasons. Some ordinances establish a minimum parcel size for the development of residences in rural areas, others restrict land use to farming related activities. Transfer of development rights is another popular zoning program that allows a landowner to transfer the right to develop one piece of ground to another parcel, generally from an agriculture area to an area designated as a growth zone. By 2001, 17 states and many local jurisdictions had instituted some form of transfer programs.

Purchase of conservation easement rights to a property is one major voluntary approach and 21 states have some form of easement purchase program. The terms, funding, and other aspects of voluntary programs vary considerably by state. For more information and for a discussion of all the possible programs visit the American Farmland Trust Web site and go to the Farmland Information Center.

The most important consideration for individuals interested in farmland preservation is to determine their goals. If the concern is primarily to preserve the rights of the current generation, then two approaches should be taken. First, determine all the programs that are offered in the local area or state.



The American Farmland Trust is one of the best places to start this search, but be sure to search state and federal agencies and private conservation

groups to learn which programs are available. Owners must carefully evaluate whether or not these programs are consistent with goals, and then to determine any potential tax consequences or other implications from the programs.

Evaluation of zoning and most other regulatory programs is usually fairly straight forward. If the farm or ranch is located where these programs exist, and if the terms of the program are appropriate, then landowners must ensure that they are operating in a manner that allows them to take advantage of the protection afforded by the zoning regulation.

Voluntary programs, however, must be carefully evaluated. The most common, the conservation easement programs, will have different consequences depending upon the terms and conditions of the easement. For example, tax implications and impacts on future generations will vary, and some easements may have conditions that will influence the ability of the current farming system to be altered in the future. All of these conditions and the evaluation of their impact depend on the individual circumstances. Farmers and ranchers must know what they want from farmland preservation and should always seek competent legal advice before entering into an easement, regardless of the length of time it will be in effect.

Preserving the operation Another major reason for farmland preservation is to preserve the farm or ranch primarily for future generations. Many landowners want to be sure that a particular individual or individuals can continue farming. Others are concerned that the land stays in agriculture.

Regardless of the reason, a complete estate plan is essential to outline the intended uses for the land and how to achieve the landowners goals. An estate plan is not a will, but a will is a part of an estate plan.

One major purpose of an estate plan is to specify how ownership and management of the business, including the land is transferred. Many farmers and ranchers



want to keep their operation alive but they also want to treat all their children fairly. Because land is the primary asset of the farm estate, many producers simply divide the land equally among the children. Unfortunately this approach often does not preserve the farmland, at least not in the family. For example, if some of the heirs want to sell their share, the others may be forced to buy them out. If this option is unaffordable, the whole farm may have to be sold. Another problem with dividing the farmland is that losing part of the land base may make the remaining unit uneconomical, again forcing a sale.

Fortunately, there are many estate planning options and alternatives available to help a landowner treat farming and non-farming heirs fairly and still preserve the land as farmland. For example, the value of the estate can be determined when the farming heir starts in the operation. The value of this estate, not the land itself, can then be divided among the heirs through non-farming assets or insurance policies. In this way increases in value, or retention of value attributed to the farm can be retained by the heir. Another approach is to establish equal division of the estate and then ensure that the farming heir buys out the non-farm heirs over time. Other estate planning tools include annual gifts, buy/sell agreements, life insurance purchases, or trusts. By using some or all of these tools a landowner can minimize the tax burden on an estate, treat all heirs equitably, and ensure plans will be implemented. An estate plan must be prepared with competent legal advice and should be reviewed periodically as conditions within the family and the goals change.

While these methods do not guarantee farmland preservation, they do ensure that the farm will continue into the next generation. In addition, a landowner can place restrictions on the use of the land or put the land into a trust to guarantee continuation as farmland, for example, by establishing easements on the land through an estate plan.



While a permanent easement may achieve the goals of the current landowner, it could impose restrictions on future generations.

In summary, farmland preservation is an important topic especially in localities facing increasing urbanization and growth of rural residences. In many instances these changes are creating undesirable results, especially as one considers rural amenities and other services that farmland provides. When considering farmland preservation options, it is critical to remember the reason for pursuing preservation. A macro, or societal, point of view calls for one set of actions, whereas an individual perspective may require a different set. The appropriate approach and the best tools available will depend on the point of view and the goals.

i. Farmland Protection Programs, Cynthia Nickerson and Charles Barnard, Agricultural Resources and Environmental Indicators, 2006 Edition / EIB-16 Economic Research Service / USDA

http://www.ers.usda.gov/publications/arei/eib16/eib16_5-6.pdf

ii. American Farmland Trust, Farmland Information Center <http://www.farmland.org/resources/fic/default.asp>

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Helen and Larry Armstrong — Your Small Farm Neighbors

Tucked away in a quiet corner of Delaware, the Armstrong farm is an excellent example of how hard work and planning, combined with the wise use of Federal and state programs, can keep productive land in agriculture and support a family farm in perpetuity.

The land has been in the family for generations, beginning in the 1940s when Mrs. Armstrong's father moved to New Castle County from Pennsylvania and developed a flourishing livestock operation, primarily sheep. Discovery of scrapie (an infectious, usually fatal disease that affects the nervous system of sheep) in the bloodline of the flock in the early 1960s forced mass slaughter with no compensation! Then, road development projects caused further setbacks and, some years later, changes to neighboring properties led to serious and recurrent flooding on parts of the low-lying land. (The farm adjoins the tidal marshlands of the Delaware Bay.) It must have been tempting, at that point, to just give up and sell the land, but the family was determined. They did whatever was needed to stay in

farming, diversifying their operation and, like so many smaller-scale producers, supplementing their income with off-farm employment.

Helen and Larry Armstrong, the current owners, are primarily in the hay production business. They sell the bulk of the crop to local farmers, mostly horsemen, but retain some to feed their livestock (sheep and beef). They also grow some grains - corn, soybeans, and oats, but with local development their grain markets have moved further away, making it more difficult to efficiently deliver grain for sale. The workload is heavy and they do most of it themselves, helped by their oldest son and occasional hired labor. In addition, Mrs. Armstrong works in a nearby town, primarily to cover insurance. There isn't much time for vacations, but they love the life. Mrs. Armstrong admits to an occasional 'day off,' usually riding round the farm on one of the two friendly mules that provide excellent and reliable transport for marshy areas. For his part, Mr. Armstrong is training four beautiful Belgian draft horses that remind him of the big work horses of his youth. With time and patience, he hopes to use them to work the land.



The property is very ecologically diverse, combining tillable acres with woodlands and marshland that are extremely important to the environment. (A recent survey found more than 165 species of wildlife, including at least 140 bird species, many of which nest as well as visit.) The Armstrongs have worked over the years to maintain or improve the habitat for wildlife and to make overall improvements to their farming practices; they have installed "buffer" zones to protect the waterways from nutrient run-off, ponds to aid in drainage and enhance wildlife habitat, and fencing to ensure that livestock doesn't contribute any pollution.



In the last few years, the Armstrongs have become increasingly concerned that Delaware's rapid population growth may affect the long-term security of their farm. Retirees and younger families from nearby metro areas - Baltimore, Philadelphia, Washington, DC, New York, and New Jersey - are trading their high-priced homes for the beauty and peace of Delaware. The town of Smyrna, only a few miles from the farm, has tripled in population and continues to grow, as construction of new subdivisions of single-family homes on small lots continues. Land prices are soaring across the state and some agriculture producers are being forced to sell part or all of their land to meet higher property taxes (>\$50,000 / acre!). Lawsuits are another problem. New neighborhoods, unwilling to accept the noise and smells associated with an agricultural operation, can invoke anti-nuisance laws that would put farmers out of business (ref: *Equity in Agriculture*; Delaware Office of State Planning, September 2005.) (http://www.state.de.us/planning/livedel/equity/equity_in_agriculture_september_2005.pdf)

Legislators have become concerned about loss and fragmentation of farmland, as well as the danger to environmentally sensitive resources. Delaware's state and local jurisdictions, supported by the Federal government, offer several voluntary and involuntary programs to help farmers preserve their lands. A major zoning regulation, for example, is under consideration. If passed, this would generally restrict future housing development to a 4-acre minimum lot size. Nevertheless, the Armstrongs feared that continued population growth could eventually overturn local zoning regulations, and decided that the safest way to protect their land in perpetuity was to transfer its development rights to the state through the Delaware Agricultural Lands Preservation Program. (<http://www.delcode.state.de.us/title3/c009/>)

The first phase of this voluntary program is available to most Delaware farmers. By registering land as an Agricultural Preservation District and guaranteeing to use it only for agricultural purposes for at least 10 years, a farmer receives significant protection against nuisance suits, and the land is taxed at its agricultural rather than market value for the duration of the agreement.

The second phase of the program offers protection that is more permanent. Farmers sell the development rights on their land to the Delaware Agricultural Lands Preservation Foundation, but retain all other rights, including the right to farm the land, borrow against it, sell it, or bequeath it. As an agent of the state, the foundation holds, administers, and oversees the land, but may not develop it; in other words, the land is preserved in perpetuity.

Several factors affect how much farmers receive for their development rights. While the amount is based on the difference between the 'best value' (usually residential or commercial) of the land and its current agricultural value, the payment is then discounted, perhaps by as much as 50 percent. And, of course, farmers owe state and Federal taxes on the amount received. Interestingly, the method of calculation may affect time of entry into the program. Farmers who join early receive less than those who wait until soaring property values inflate the 'best value.'

About half the funding for phase two comes from the Federal (<http://www.nrcs.usda.gov/programs/frpp/StateFacts/DE2002.html>), managed by the Natural Resources Conservation Service. FRLPP protects valuable topsoil by limiting non-agricultural uses. Thus, some farms may be ineligible for phase two if the soil is not of high enough quality, or if the land parcel is too small to guarantee continued agricultural production.



The Armstrong farm, however, was an ideal candidate, with more than 200 acres of contiguous land and excellent soil that was vulnerable to both flooding and development. Before deciding to give up development rights on their land forever, the Armstrongs wisely discussed the issue with their five children. After all, the decision could reduce greatly the value of any future sale of the land. The family all agreed that they would never like to have the land developed or used for commercial purposes. The Armstrong's oldest son may return to the farm, and is exploring ecotourism as a means of supplementing farm income.

Fragmentation was not an issue in this case, therefore, and many other estate-planning options are available to ensure equitable distribution of assets to all children.

In short, the Farm and Ranchland Protection Program created a win-win-win situation for all partners. The Natural Resources Conservation Service is preserving fragile topsoil, Delaware is keeping a relatively large parcel of land safe from development, and the Armstrongs continue to farm with peace of mind for the future, and with money to re-invest in their farm.

The outlook for the farm is bright, with a 5-year plan that includes:

- expanding the beef herd and upgrading with Angus;
- Increasing the number of sheep, perhaps with Katahdins, a popular meat breed which sheds its hair, avoiding the problem of regular sheering; and
- increasing acreage of hay crops by leasing nearby land to take advantage of the growing feed market generated by Delaware's expanding race horse industry.

All-in-all, the Armstrongs are satisfied with the Delaware Agricultural Lands Preservation Program, though they note that the discount factor is high. In the long term, they hope that members of their family will carry on the stewardship of the land in such a way that the farm's beauty is maintained while carrying on a viable farming operation.



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- If you have questions about the Small Farms Digest, or to subscribe or unsubscribe to this newsletter, please contact Patricia McAleer at pmcaleer@csrees.usda.gov or call (202) 720-2635.



Online

Resources

“Agricultural Conservation Easements,” Fact Sheet, American Farmland Trust.
http://www.farmlandinfo.org/documents/27762/ACE_06-10.pdf

“Agricultural Protection Zoning,” Fact Sheet, American Farmland Trust.
http://www.farmlandinfo.org/documents/29478/FS_APZ_9-98.pdf

“Farm and Ranchlands Protection Program,” Fact Sheet, American Farmland Trust.
<http://www.farmlandinfo.org/documents/30194/Frpp2.pdf>

“Farm Transfers Go Much Smoother if Everyone Talks,” AgAnswers, Ohio State Extension and Purdue Extension, November 2003
<http://www.agriculture.purdue.edu/aganswers/story.asp?storyID=3500>

“Farmland Preservation,” Alternative Farming Systems Information Center, National Agricultural Library, USDA.
http://afsic.nal.usda.gov/nal_display/index.php?info_center=2&tax_level=2&tax_subject=301&topic_id=1443

“Farmland Preservation,” Issue Report, Farm Foundation, April 2004.
<http://www.farmfoundation.org/Issue%20Reports/documents/April2004FarmlandPreservation.pdf>

“Farmland Preservation and Rural Communities,” Environmental Protection Agency,
<http://www.epa.gov/reg5oopa/sprawl/farmland.htm>

“Land Use, Value, and Management,” Economic Research Service, USDA.
<http://www.ers.usda.gov/Briefing/LandUse/>

“Natural Resources Conservation Service,” “Farm Bill 2002: Summary of NRCS Conservation Programs”
<http://www.nrcs.usda.gov/programs/farmbill/2002/pdf/ProgSum.pdf>

“Selected Estate Planning Resources,” Financial Security in Later Life, Cooperative State, Research, Education, and Extension Service, USDA
http://www.csrees.usda.gov/nea/economics/fsll/edu_selectedestate.html

“The Farmland Protection Toolbox,” Fact Sheet, American Farmland Trust.
http://www.farmlandinfo.org/documents/27761/FS_Toolbox_10-02.pdf



Printed

Resources

1. New publications available from the University of California Small Farm Center:
 - “A Handbook for Planning and Managing Agritourism and Nature Tourism Operations—A Primer” (updated version)
 - “Farmers Market Management Series,”
Volume 1: Starting a New Farmers Market; Volume 2: Management Skills for Market Managers; Volume 3: Growing Your Farmers Market.



For more information: Phone 530-752-8136 or email us at: sfcenter@ucdavis.edu

2. “The Importance of Estate Planning,” by Miessha N. Thomas, in *Minority Landowner*, Volume 1 Number IV, Spring 2006.
(919) 215-1635; ccpublishing@earthlink.net

Opportunities

*Grants
Loans
Training*

The Sustainable Agriculture Research and Education (SARE) program offers National Continuing Education Program in Sustainable Agriculture (<http://www.sare.org/coreinfo/ceprogram.htm>) a continuing education program designed primarily for Cooperative Extension and Natural Resource Conservation Service personnel and other agricultural, natural resource and community development professionals. The program emphasizes core concepts and a basic understanding of sustainable agriculture, its goals and its relevance to every farming and ranching operation - large or small.

School for Beginning Market Growers, Center for Integrated Agricultural Systems, University of Wisconsin, Madison, WI January 19 – 21. <http://www.cias.wisc.edu/marketgrower.php>

National Research Initiative - Agricultural Prosperity for Small and Medium-Sized Farms. The purpose of this program is to foster interdisciplinary studies to improve our understanding of the interactions between the economic and environmental components important to the long-term viability, competitiveness and efficiency of small and medium-sized farms. Submissions due February 14, 2007. http://www.csrees.usda.gov/funding/nri/nri_topics.html

Introductory Course in Organic Farming and Gardening, Cumming, GA, January 20, 2007 - April 28, 2007 <http://www.georgiaorganics.org/events/event.php?id=225>



Upcoming Events

DATE	EVENT	LOCATION	CONTACT
Jan. 18-20	<i>Fresh Eyes On The Land: Innovation and the Next Generation, Quivira Coalition, 6th Annual onference</i>	Albuquerque, NM	http://www.quiviracoalition.org
Jan. 22-23	<i>Cultivating Farm Revenue, 2007 Agritourism Conference</i>	Pigeon forge, TN	http://epa.utk.edu/level2/agri-tourism/2007/agritourconf/index.htm
Jan. 25-28	<i>“Practical Tools and Solutions for Sustaining Family Farms” the 2007 Southern SustainableAgriculture Working Group Conference</i>	Louisville, KY	http://www.ssawg.org
Jan. 25-26	<i>North Central Ohio Dairy Grazing Conference, Small Farm Institute</i>	Wooster, OH	http://www.smallfarminstitute.org/calendar.html
Jan. 26-27	<i>9th Annual Midwest Agriculture Conference</i>	Red Wing, MN	http://www.rivercountryred.org/Registration2007_rev4.pdf
Feb. 1-3	<i>Farming for the Future</i>	State College, PA	http://www.pasafarming.org/farmingForTheFuture.htm .
Feb 7-8	<i>Midwest Women in Agriculture Conference</i>	Fisher, IN	http://www.ces.purdue.edu/wia
Feb. 9-10	<i>AgLink a program to help families make the transition to a multiple generation farm business</i>	Ames, IA	http://www.extension.iastate.edu/bfc/Aglink
Feb. 9-10	<i>24th Annual Small Farmers Marketing and Trade Show Conference, Federation of Southern Cooperatives/Land Assistance Fund</i>	Albany, GA	http://www.fsc@mindspring.com
Feb. 10	<i>Putting Small Acreages to Work</i>	Springfield, IL	http://asap.sustainability.uiuc.edu



Upcoming Events

DATE	EVENT	LOCATION	CONTACT
Feb. 8-10	<i>National Black Farmers Association Annual Conference</i>	Dallas, TX	http://www.blackfarmers.org/
Feb. 12-14	<i>National Immigrant Farming Initiative's Inaugural National Conference</i>	Las Cruces, NM	http://www.immigrantfarming.org/
Feb. 16-17	<i>The Wellbeing of Rural Kansas</i>	Manhattan, KS	http://www.dce.ksu.edu/sustainableag
Feb. 21-23	<i>4th Annual Diversified Agriculture Conference, Thanksgiving Point</i>	Lehi, UT	http://diverseag.org/htm/conference
Feb. 24	<i>ASAP 2007 Marketing Opportunities for Farmers Conference</i>	Swannanoa, NC	http://www.asapconnections.org/marketingConference.htm
Mar. 1	<i>First New England Farmers' Direct Marketing conference and Trade Show</i>	Sturbridge, MA	http://www.harvestnewengland.org/Conference2007.htm
Mar. 1-2	<i>"Agriculture at the Crossroads - Energy, Farm & Rural Policy"</i>	Arlington, VA	http://www.usda.gov/oce/forum
Mar. 4-6	<i>2007 California Farm Conference</i>	Monterey, CA	http://www.californiafarmconference.com
Mar. 26-28	<i>Southwest Marketing Network's 2007 Conference</i>	Flagstaff, AZ	http://www.swmarketingnetwork.org/conferences.htm
Mar. 26-28	<i>2007 Annual Small Farms, Women in Business and Marketing Conference</i>	Vicksburg, MS	http://www.dce.ksu.edu/sustainableag



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See Small Farm website (www.reeusda.gov/smallfarm) for the most up-to-date listing of events. We welcome submissions of events from our subscribers that would be of interest to the small farms community so that our Upcoming Events listing reflects a diversity of events from all regions of the country. Please send submissions to Patricia McAleer at pmcaleer@csrees.usda.gov. (phone: 202/401-6544; fax: 202/401-5179)