

## Beyond Easements

Land trusts are the pioneers of the conservation movement. The majority of farmland is privately owned, and farmers and ranchers often are suspicious of public farmland protection programs. They may fear that these programs will be developed without their input. Or that conservation efforts will result in loss of control over their land. Land trusts can protect farmland by nurturing a culture of conservation where government involvement is unwelcome. This issue of *Connection* focuses on how land trusts are protecting farmland and sustaining agriculture.

Most land trusts accept and hold conservation easements. A conservation easement is a legally recorded, voluntary agreement that limits land to specific uses. Agricultural conservation easements restrict uses of land that could interfere with farming or ranching. Easements are an important land protection tool. But there are other ways that land trusts can work with farmers and ranchers. Starting with projects that involve a less permanent commitment can be the best way to build support for easement donations in the long term.

The first step is building trust in the agricultural community. Land trusts that are successful in working with agricultural communities generally have farmers or ranchers on their boards or staff, and structure their programs to meet the needs of commercial operations. Providing useful services—such as economic development, stewardship, estate planning, farm transfer and education—is another important way to build trust.

### ECONOMIC DEVELOPMENT

Farmers often say that the best way to save farmland is to keep farming profitable. Agricultural economic development projects help demonstrate that land trusts care about farmers as well as the land. Some land trusts use simple strategies to promote farm businesses. For example, Franklin Land Trust in Ashfield, Mass., produces a colorful brochure that advertises recreational opportunities on local farms, and neighboring Valley Land Fund in Hadley, Mass., developed a map of farms that sell products directly to consumers. Other land trusts are helping farmers create new markets and products. In Suffolk County, N.Y., Peconic Land Trust operates several farmer's markets. And in San Juan County, Wash., Lopez Community Land Trust received a federal grant to bring a USDA-approved meat processing facility to its island farm community. By increasing farm profits, these efforts increase farmers' incentives to protect their land. *continued on page 6*

## INNOVATIONS

### LAND TRUSTS AND FARM LEASES

Conservation organizations that acquire land in fee face a dilemma: Outright ownership allows for more control, but it also means more work and more expenses. Land trusts often pay property taxes, and few have the resources or the expertise to manage large tracts of land. Instead of hiring a property manager and soliciting donations to cover expenses, some land trusts are earning income by leasing their land to farmers and ranchers. A lease can be used as a long-term land management tool or as an interim strategy when the long-term plan is to sell the land subject to a conservation easement. *continued on page 7*

# LANDWORKS

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# Connection

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## MAKING YOUR CASE

### *SUBURBAN DEVELOPMENT BAD FOR WATER QUALITY*

A recent study of Wisconsin streams shows that even at low levels, suburban development degrades water quality. In comparison, forested land is associated with good water quality. The impact of agriculture on water quality seems to vary according to the percent of land cover in agricultural use. Heavy agricultural use contributed to a drop in fish diversity in some areas, but other agricultural areas showed no decline in water quality.

Researchers used a geographic information system to identify upstream land uses at 134 sites along more than 100 Wisconsin streams. An index of biological integrity and a habitat quality rating were used to measure the effects of different land uses on stream ecology. The study found that watersheds with more than 20 percent of land in urban use had very poor biological integrity. This decline in water quality is attributed to increased runoff from paved surfaces. "Researchers have known that a heavily urbanized area can cause problems for a stream, but everyone just assumed "urbanized area" meant some place like downtown Milwaukee," said researcher John Lyons in a press release. "What we're finding is that we're not talking about downtown, we're talking about suburbia—subdivisions, strip malls, highways, parking lots and driveways."

Agriculture did not appear to have an impact on water quality in areas where less than 50 percent of the land was devoted to farming. Biological integrity generally decreased at higher levels of agricultural use, although there were exceptions. In the press release, Lyons reflected that "this shows that unhealthy streams are not inevitable when there is heavy agricultural use. There are...ways to farm that can co-exist with good stream quality." The results of the study provide an ecological justification for protection of forests and farmland. 

Source: Wang, L., J. Lyons, P. Kanehl and R. Gatti, "Influences of Watershed Land Use on Habitat Quality and Biotic Integrity in Wisconsin Streams," *Fisheries*, 22 (6), June 1997, pp. 6-9.

## USING RESOURCES WISELY

### *NEW LIFE FOR OLD BARNs*

Vermont's new Historic Barn Rehabilitation Grant Program is an innovative blend of historic preservation, farmland protection and agricultural economic development. The program is designed to preserve old barns for their historic significance and restore the structures to working condition. Grants pay for structural repairs and changes necessary to adapt barns to new uses. Other states have barn rehabilitation programs, but this program is unique in that it provides substantial grants. It is also the only such effort that targets barns on conserved farms.

The program was started in 1997 and is administered by Vermont Land Trust and the Preservation Trust of Vermont. To qualify, a barn must be located on a farm protected by a conservation easement. It must also be listed—or eligible for listing—on the National Register of Historic Places, which is true of most farm buildings more than 50 years old.

The process starts with a one-page application for a grant to cover 80 percent of the cost of a professional evaluation of the barn's condition. The completed assessment may then be submitted as a grant application. The amount of this grant is determined by the budget proposed in the assessment, and usually ranges between \$10,000 and \$25,000, covering 75 percent of costs for needed repairs. The property owner pays the remaining 25 percent.

Program administrator Mary Jo Llewellyn says that most of the restored barns are used as they historically have been: for storage, usually of hay and equipment. Since each barn and farm is different, however, uses vary widely. Some restored barns have been refitted with milking parlors and modern freestalls.

National Trust for Historic Preservation barn expert Mary Humstone emphasizes that barn restoration is a good financial decision for farmers even in the absence of grants. The Trust's BARN AGAIN! program provides technical assistance to barn owners nationwide and works in partnership with programs in Colorado, Indiana, Iowa, Michigan, North Dakota, Ohio, Vermont and Wisconsin. NTHP's demonstration projects and surveys show that barn owners save an average of 50 percent by restoring old barns instead of replacing them with new structures.

The Vermont program is a good model of how to target limited resources. The decision to limit barn restoration grants to owners of conserved farms gives farmers another incentive to protect their land. It also helps ensure that Vermont's historic barns will prevail well into the next century, not as museums, galleries or gift shops, but as working elements of the state's agricultural landscape and economy. 🏡

## Land Trusts and PACE Programs— Competition or Collaboration?

Purchase of agricultural conservation easement programs are one of the most popular farmland protection tools. But some land trusts are wary about the prospect of a PACE program in their state. Staff and board members of private conservation groups are concerned that a public acquisition initiative could put them out of business. Landowners, they fear, might be less likely to donate conservation easements if public funds become available to buy restrictions on farmland. The experiences of a number of land trusts, however, suggest that PACE programs can create new opportunities for protecting land.

Lancaster Farmland Trust in Lancaster, Penn., covers the same territory as one of the nation's premier county-level PACE programs. Yet LFT Executive Director Tom Stouffer reports that easement donations are climbing. He believes that the county program acts as a "hook" by getting people interested in land protection. After landowners learn more about the county program, some choose to work with the land trust instead. Many of the county's farmers prefer not to be involved with government agencies. And the land trust can complete transactions much more quickly—the county typically has a backlog of more than 250 applications.

The Brandywine Conservancy in Southeast Pennsylvania avoids competition with local PACE programs because their mission is different—the Conservancy targets natural areas rather than productive agricultural land. Many of these properties would not meet PACE eligibility criteria. When a property includes both cropland or pasture and ecologically sensitive land, Conservancy staff help the landowner apply to the county to sell an agricultural easement. This gives them the opportunity to encourage the landowner to donate a restriction on portions of the property with important natural resources, such as wetlands or wildlife habitat. Donation of a conservation easement can improve the chance that the landowner's application to the county will be accepted.

Another strategy is to appeal to different types of landowners. Todd Dunham from the Adirondack Land Trust believes that the new easement acquisition program in Essex County, N.Y., will give more farmers the opportunity to protect their land. "...We had pretty much tapped the donation market," he reflects. "There are only so many rich folks with farms. We knew that most farmers wouldn't be in a position to donate a conservation easement."

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**Competition or Collaboration** *continued from page 3*

Land trusts also work cooperatively with PACE programs. At least two state-level programs—run by the Vermont Housing and Conservation Board and Great Outdoors Colorado—award grants directly to land trusts to purchase agricultural easements. Vermont Land Trust also monitors easements purchased with VHCB funds and held by other agencies. And in Marin County, Calif., the board of supervisors adopted a formal agreement authorizing the Marin Agricultural Land Trust to administer a county easement acquisition program. This arrangement made the land trust eligible for state funding.

Land trust staff in areas considering PACE can learn from these examples and the experiences of other land trusts that work with established programs. To create opportunities and avoid competition with public programs, your land trust can:

- *Emphasize your conservation expertise, and offer to administer a public program;*
- *Recommend that the program make grants to land trusts to purchase easements;*
- *Offer to monitor easements purchased and held by public agencies;*
- *Offer to "pre-acquire" easements when the public program can't act quickly enough to protect a property;*
- *Offer services that the public program doesn't offer, such as flexible easement payment options;*
- *Carve a unique identity for yourself to give landowners a clear choice—for instance, LFT distributes a fact sheet that highlights differences between the county PACE program and the land trust;*
- *Focus on properties that would not meet eligibility criteria for the public program; and*
- *Educate landowners about all the different conservation options, including PACE.* 🚗

*Photo Caption:  
KPC staff and Rice  
Farmer—David Nelson  
(Lessee) and Carter  
Smith (KPC) discuss  
farm matters. A rice field  
is in the background.*

Photo by Carolyn Fannin



**GOOD DEALS**  
**TEXAS FARM IS FOR  
THE BIRDS**

The Katy Prairie Conservancy's Nelson Farm Preserve is a model of how land trusts can enhance wildlife habitat through agriculture. It's also a good example of the creativity and flexibility that private organizations bring to land protection projects.

Nelson Farms is located just west of Houston in a rapidly

growing area that is renowned for its thriving and diverse bird communities. It was a critical piece in the Conservancy's effort to assemble a large block of conserved land on the Katy Prairie. The 554-acre property encompasses a creek, wetlands and important wildlife habitat. During the winter months, more than 100 bird species have been observed on the land. The farm abuts a 500-acre easement-protected property and is adjacent to a 112-acre tract that will be donated to the Conservancy as part of a wetlands mitigation project.

The Nelsons' rice farming operation also was intriguing to Conservancy staff. "Land in rice can be very attractive to migratory and wading birds," explains Executive Director Carter Smith. In addition to preventing development, protection of the farm offered the Conservancy the opportunity to demonstrate environmentally friendly farming techniques. Staff decided that a fee simple acquisition would give the Conservancy the most flexibility to manage the land for wildlife.

The Conservancy secured contributions from federal agencies, private foundations, individuals and corporations, including the North American Wetlands Conservation Council, the National Fish and Wildlife Foundation and a large real estate developer who was looking for a community service project. With funding in hand, staff approached the landowner. The parties negotiated a complex deal involving a "1031" or "like-kind" exchange. This technique allows people who sell commercial property to shelter capital gains by investing the proceeds in similar property within 45 days of the sale. The exchange made the deal much more attractive to the landowner, and the Conservancy waited while he located another property. But the negotiated price for Nelson Farms—approximately \$500,000—was still more than the Conservancy had in hand.

To make the deal work, the Trust for Public Land agreed to serve as an intermediary. TPL purchased the farm in 1997 and sold it to the Conservancy with a note. This was significant, says Smith, because it was TPL's first conservation transaction with a local land trust in Texas. The Conservancy granted an easement on the land to another land trust, and entered into a five-year agricultural lease on the property with the previous owner (see related story, p. 1). Last fall, the farmer flooded his rice fields after the second harvest, creating seasonal wetlands. "In January, we had 20,000 to 30,000 ducks and geese on the land," says Smith.

The Katy Prairie is a mecca for birders, and the Preserve lies along the Great Texas Coastal Birding Trail. The Conservancy recently obtained approval from the Texas Parks and Wildlife Department and the Texas Department of Transportation to make the Preserve a stop on the Trail. The Houston Sierra Club and a local construction company have pledged funds to build a wildlife viewing blind. Interpretive signs will explain how agriculture can maintain and enhance wildlife habitat.

It has been less than a year since the Conservancy created the Preserve, but so far, it appears to be a good deal for all parties. The seller got a fair price for his land and continues to use it for agriculture. Conservancy staff are excited about using the Preserve as a model for work with other landowners, and they are happy with the lease agreement. Smith hopes that TPL's involvement will set a precedent for future collaborations. Eagle Scouts are working on habitat enhancement projects in the Preserve, and area residents will continue to enjoy the open space and birding opportunities created by the project at virtually no public cost. 🚧

## THE LAND ON THE LINE

### PROTECTING FARMS—FOR WHOM?

Protecting a farm or ranch with a conservation easement does not guarantee that the land will remain in agricultural use. In many areas of the country, people in the market for estates compete with farmers and ranchers for protected land. Wealthy individuals can pay far more for a conserved farm or ranch than a commercial producer. This is particularly true of properties with scenic, historic and recreation values.

Both private land trusts and public farmland protection programs are beginning to experiment with ways to keep protected land affordable for agriculture.  
*continued on page 6*

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Conservation

*Should there be limits on the future transaction price of conserved, working farms?*

**Land** *continued from page 5*

To limit the appeal of protected farms to estate buyers, the Massachusetts Agricultural Preservation Restriction Program includes an "option to purchase at agricultural value" in its farm restrictions. When a protected farm comes up for sale, this provision gives the state the right to buy the property at its agricultural value, or assign that right to a commercial farmer. Peconic Land Trust in Long Island, N.Y., excludes equestrian rights from easements, making protected properties unsuitable for horse-related recreational uses. Vermont Land Trust has experimented with shared equity agreements to limit profits from the sale of protected land. The Equity Trust in Voluntown, Conn., is working to develop long-term farm leases to give farmers many of the rights of ownership, but allow land trusts to retain title.

At a 1998 meeting on the topic of affordable farmland sponsored by American Farmland Trust and The Equity Trust, participants debated the wisdom of trying to control future ownership and use of protected farms. Proponents maintain that once a land trust or public agency has invested in protecting land for agriculture, farmers should be able to purchase it for that purpose. Where public funds have been used to protect land, they argue, failure to address the issue of estate value can be seen as subsidizing the price of estates for wealthy landowners. Opponents counter that limiting the market price of protected farms is "social engineering," and might prevent farmers from improving their properties and using their profits to build bigger homes, swimming pools, etc.

What do you think? Should there be limits on the future transaction price of conserved, working farms? If so, what should they be? Share your opinion through our private list server. To subscribe, send a blank email message to [LandWorksOnline@farmland.org](mailto:LandWorksOnline@farmland.org), with the subject heading <subscribe>. We'll summarize the discussion in a future issue of Connection, and investigate your ideas in new research projects and publications. 🚗

**Beyond Easements** *continued from page 1*

**LAND STEWARDSHIP**

For many land trusts, stewardship means monitoring easements to prevent violations. While this is an important function, a more comprehensive view of stewardship can create more opportunities to work with farmers and ranchers. In Southeast Pennsylvania, the Brandywine Conservancy's Land Stewardship Program helps landowners develop plans to protect, manage and improve farmland, meadows, natural areas and historic sites. The Conservancy assists landowners with cataloging flora and fauna and offers advice on stream and pond improvements, soil erosion and sediment control. Helping a farmer develop a farm conservation plan makes good ecological sense. It also may be a first step toward encouraging the landowner to place an easement on the land.

**ESTATE PLANNING AND FARM TRANSFER SERVICES**

Agricultural land is most vulnerable to conversion when it is passed from one generation to the next. Without a good estate plan, heirs that want to farm may be forced to sell land to pay inheritance taxes, or settle the estate with non-farming heirs. Land trusts can provide a valuable service by helping farmers and ranchers develop estate plans that balance personal, business and conservation goals. Because estate planning involves complex legal and financial issues, it is important for land trusts to have legal and financial expertise on their staffs or boards.

Farmers who do not have children that want to farm face a special challenge. They may hope that their land will be farmed in the future, but may not be able to find an agricultural buyer. Some land trusts play an informal "matchmaker"

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Available in the online version of this story at <http://www.farmland.org/landworks.html>, or call Lynn Johnson at (413) 586-9330 for the same information by fax.

role, connecting farmers who are looking for land with older farmers who want to sell. Vermont Land Trust is collaborating with the University of Vermont on Land Link Vermont, a new program that connects beginning and retiring farmers. The program will maintain a database of available land and people looking for land, offer workshops and act as a clearinghouse for farm transfer information. There are 17 other land link programs in 16 states; the concept was developed by the Nebraska-based Center for Rural Affairs.

#### **EDUCATION THROUGH DEMONSTRATION FARMS**

Many land trusts encourage farmers to use ecologically sound farming methods. One of the most convincing ways to do this is to set a good example—by operating a commercial farm. Peconic Land Trust runs a community-supported farm that sells shares of the harvest to consumers at the beginning of the growing season. American Farmland Trust demonstrates grass-based dairy farming at Cove Mountain Farm in Pennsylvania. Puget Sound Farm Trust in Washington is working to establish a small farm research and education center to demonstrate the feasibility of "microfarms" and assist small farmers in the greater Seattle region. Demonstration farms can offer tours and workshops for experienced farmers and apprenticeships for beginning farmers. To set a convincing example, however, these farms must be economically viable as well as ecologically sustainable. A farm that is supported by donations, rather than profits, is unlikely to be seen as a good model by commercial farmers.

#### **LAND TRUSTS AND PUBLIC PROGRAMS**

In addition to providing services to landowners and accepting easements, some land trusts work with public farmland protection programs. In *Land Conservation Through Public/Private Partnerships*, Eve Endicott writes that land trusts bring agility, creativity and "an atmosphere of possibility" to public land conservation projects. By building trust in the agricultural community, cultivating public support for farmland protection and developing innovative new tools and techniques, land trusts provide critical leadership for public efforts. 🚧

#### **Leases** *continued from page 1*

In either case, carefully crafted farm leases can help land trusts achieve conservation objectives, build trust in the farm community and set a good example for other farm operations and public agencies.

Ensuring protection of natural resources is generally the most important concern for land trusts that lease their property. In some cases, agriculture is the best way to achieve conservation objectives. The Sierra Foothill Conservancy in California leases nearly 3000 acres of land to two different cattlemen. "Our leases are written with maintaining biodiversity as the goal," comments SFC President Chuck Peck. "But it turns out that they conform very closely to good grazing practices." Grazing, he explains, controls brush and non-native vegetation. "If we did not graze these lands, we would begin to lose biodiversity within a few years."

To make leases attractive to farmers, terms must balance conservation goals with the needs of commercial operations. Clarity and predictability are important. Including a resource management plan in the lease lets the farmer or rancher know what is expected. American Farmland Trust leases Cove Mountain Farm, a 300-acre property in southern Pennsylvania, to a commercial dairy farmer who is demonstrating rotational grazing techniques. The farmer is required to maintain the land in a condition consistent with a conservation plan approved by the Natural Resources Conservation Service. In addition, the lease calls for a manure management plan, limits the number of cattle that may be grazed on the property and requires them to be fenced out of watercourses. SFC attaches a grazing management plan to its leases. The plan ties grazing rates and dates to the amount of rainfall and residual dry matter in any given year. *continued on page 8*

*This issue of Connection provides several examples of land trust leadership. We know there are more. Please tell us what your land trust is doing to protect farmland. Share your successes with us—and your colleagues—through the LandWorks list server, located at: LandWorksOnline@farmland.org*

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**Leases** *continued from page 7*

Flexibility and the willingness to compromise also are important. Katy Prairie Conservancy in Texas leases its 554-acre farm to the former owner, who is managing the property for wildlife as well as agriculture (see story, p. 4) The lease includes a provision for the Conservancy and the lessee to meet each year to develop a comprehensive farm plan that "will accommodate Tenant's reasonable agricultural needs and Landlord's reasonable conservation and wildlife management objectives." KPC Executive Director Carter Smith reflects that "sometimes intensive agricultural operations can work at cross purposes with our wildlife conservation activities. As a result, we (and the farmer) have had to make a few sacrifices or compromises in how we would have preferred things to be done, but so be it. Those sort of compromises are absolutely necessary... in cultivating a positive relationship complete with mutual respect and understanding."

One compromise that land trusts sometimes have to make involves pest and predator control. Both the AFT and KPC leases allow use of agricultural chemicals consistent with federal, state and local law. KPC's lease makes it clear that use of agricultural chemicals "shall never be construed as the Existence or Discharge of Hazardous Materials even if such materials may be subsequently determined to be hazardous..." The lease also requires notification of agricultural damage from wildlife. In an emergency, the tenants may trap or hunt problem animals; in other cases, they are required to seek permission first. SFC allows agricultural chemicals, but prohibits tenants from poisoning squirrels or shooting coyotes.

Farmers and ranchers who lease land generally want long-term security. AFT's lease at Cove Mountain Farm is for six years, with options for two three-year extensions. KPC uses a five-year lease with a right of first refusal. SFC has a three-year lease and a one-year lease, and verbal agreements with their tenants that they will have the right to renew. "We could get a little more money by putting the leases out for bid every year," says SFC's Chuck Peck. "But we value the long-term relationship with our lessees. They understand what we are trying to do, and work with us to achieve our goals." Longer-term leases—for 10 or 25 years, or even a lifetime—could increase farmers' investment in the land and agricultural improvements. Such leases could include provisions that would ensure that the land remains in active agricultural use.

Agricultural leases can help land trusts maintain their property and earn revenue for other projects. Carter Smith reports that KPC's lessee "helps immensely with various aspects of property maintenance including repairing road crossings that have been washed out, maintaining groundwater wells and lift pumps, fixing fences, grading roads, monitoring trespassing, etc." The lease revenue, he says, "is an important source of funding for...land stewardship activities, habitat enhancement projects and...taxes." Smith expects approximately \$15,000 in income from the lease this year. SFC's grazing leases bring in \$20,000 to \$25,000 per year, and AFT's six-year lease for Cove Mountain Farm is expected to generate more than \$125,000 in gross revenue.

Agricultural leases also have the potential to open up new opportunities for conservation. "One of the side benefits that grazing gives us is credibility with the cattle community," says Chuck Peck. "And these are the folks that own all the large acreage that SFC would like to help protect." By working closely with farmers and ranchers on developing conservation-oriented leases, land trusts can set an example for public agencies and other non-profit institutions—such as churches and universities—that rent land for agriculture. 

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